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DIVISION OF WATER RESOURCES

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1937 Revision

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TABLE OF CONTENTS

FOREWORD

Brief discussion of various California water conservation acts 5

CHAPTER I

GENERAL PROVISIONS

Laws of general character affecting all types of water districts 9

CHAPTER II

CALIFORNIA DISTRICTS SECURITIES COMMISSION ACT

Text of Securities Commission Act revised 33
Other laws relating to district securities 42

CHAPTER III

CALIFORNIA IRRIGATION DISTRICT ACT

Text of Irrigation District Act revised 61
Laws related to Irrigation District Act 149

CHAPTER IV

COUNTY WATER DISTRICT ACT

Text of County Water District Act revised 206

CHAPTER V

CALIFORNIA WATER DISTRICT ACT

Text of Water District Act revised 248

APPENDIX

CONSTITUTIONAL PROVISIONS AND STATUTES

References to texts included in this publication 281

INDEXES

GENERAL PROVISIONS 283
CALIFORNIA DISTRICT SECURITIES COMMISSION ACT AND RELATED LAWS 285
CALIFORNIA IRRIGATION DISTRICT ACT AND RELATED LAWS 287
COUNTY WATER DISTRICT ACT 296
CALIFORNIA WATER DISTRICT ACT 299

ADDENDUM

PUBLICATIONS OF THE DIVISION OF WATER RESOURCES 302

FOREWORD

Following each legislative session since 1919, the Division of Water Resources and its predecessors, the Department of Engineering and the Division of Engineering and Irrigation, have compiled and issued revised editions of the California Irrigation District Laws. This is the tenth volume of the series. It presents the revised California Districts Securities Commission Act, and contains in complete form, with 1937 amendments, the three principal acts under which the large majority of irrigation districts in the State have been formed. There are also assembled in the bulletin certain general provisions of the constitution and various laws which have a bearing on the operation of these organizations.

The greatest number of districts and by far the largest area in irrigation projects of the State have been formed under the California Irrigation District Act. There are at present over one hundred of these districts in existence, embracing an area of some three and one-half million acres. The next most numerous type of organization is that under the County Water District Act, thirty odd districts being now in operation. A lesser number of districts have been formed under the California Water District Act, but its provisions have been broadened to make it of general application for the construction and operation of irrigation works, and several important units are functioning under its provisions.

The wide variation of conditions in different parts of the State have led to the passage of other acts to meet certain special problems which were considered to be sufficiently different from those usually existing to warrant new legislation. A brief outline of such acts, other than those published in detail in this bulletin, is here given for comparison and further study by those contemplating new organizations.

California Water Storage District Act

This act differs from the California Irrigation District Act mainly in regard to voting and assessments. In water storage districts voting is based on a property qualification, owners being entitled to one vote for each $100 of assessed land value. Such voting does not require residence in the district. Assessments for costs are based on the benefits derived. It is adapted to areas having large or nonresident land owners or where benefits are not proportional to land values. Three districts are now operating under this act; Tulare Lake Basin Water Storage District, Buena Vista Water Storage District, and North Kern Water Storage District. No amendments to the Water Storage District Act were made in 1937. The act appears in full in Bulletin No. 18-D which was revised to 1935. (Stats. 1921, p. 1727.)

California Water Conservation District Act

The California Water Conservation District Act was drafted primarily for consolidating various interests which obtain water from Kings River for the purpose of creating storage on that stream, and incidentally for accomplishing an adjustment of the complicated water right situation. Under the act a conservation district composed of three or more units, all or any of which shall be irrigation, water storage, reclamation or drainage districts; or any other political subdivisions of the State organized to promote irrigation, reclamation, drainage or flood control may be organized in a single district, in the manner and for the purposes provided in the act. One conservation district has initiated procedure under this act, the Kings River Water Conservation District. At present the petition is still pending, waiting upon the completion of various preliminary matters by the units. No changes in the act were made in 1937. The act revised to 1935 is printed in full in Bulletin No. 18-D. (Stats. 1923, p. 978.)

County Waterworks District Act

This act was intended to handle the distribution of water in unincorporated areas adjacent to Los Angeles. The main use has been for domestic purposes, although water for irrigation is supplied by certain districts. Organization requires a petition to the county supervisors who fix the final boundaries and call an election on organization and on issuance of bonds. The general electorate is entitled to vote. Titles to district properties rest in the county until the area becomes a part of a municipality, and the county may fix water rates and levy taxes. The act was published in full in Bulletin No. 6, as amended to 1919. (Stats. 1913, p. 785.)

Municipal Improvement District Act

These districts are formed within municipalities to provide for various public improvements including water service. Some of such districts supply water for irrigation. The legislative body of the municipality handles the organization procedure and operation of the district. (Stats. 1915, p. 99.)

Water Conservation Act of 1927

This act provides for organizations to spread or otherwise conserve the water supply of the area included. The organization petition is presented to the county supervisors, and an organization election is held with each land owner entitled to one vote for each acre included. Funds are secured by taxes levied by the county. District directors elected by the voters manage the district. Taxes may not exceed 1.5 mills per dollar on the assessed value of lands and improvements unless authorized by a district election. There are no provisions for issuing bonds. The districts may also take necessary actions to protect their water rights and supplies. This act has been utilized by districts in Ventura and Tulare counties. (Stats. 1927, p. 160.)

Conservancy Act of California

This act provides for the spreading of flood waters for storage and other purposes. No districts have been formed under the act for irrigation purposes. (Stats. 1919, p. 559.)

Reclamation District Laws

These provisions have been extensively used for the organization of areas desiring to protect their lands from overflow. The law, however, permits a reclamation district to handle the irrigation of the reclaimed land. Reclamation districts are organized by proceedings before the county supervisors. There is no administrative control exercised by the State over such districts other than that of the State Reclamation Board and by the District Securities Commission in case of certain districts located within the Sacramento and San Joaquin drainage district. (Political Code, sections 3446-3493.)

Conservation Act of 1929

This act provides for storage, spreading, and otherwise conserving the water supply of the area included within the district. Organization is initiated by petition to the county board of supervisors, and the act provides for voting by the general electorate within the district. Assessments are levied on assessed values as determined by the last equalized assessment rolls of the county. Bonds may be issued when submitted at an election and approved by a two-thirds vote. Two districts, the Santa Clara Valley Water Conservation District, and the Santa Maria Valley Water Conservation District are operating under this act. (Stats. 1929, p. 307.)

County Power Pumping District Act

Organization is initiated by a petition to the county board of supervisors by not less than one-half of the landowners in the proposed district, and may be completed if approved by a two-thirds majority of the voters of the district. The purpose of organization is to construct and equip wells for supplying water to the lands of the district. The property within the district is subject to ad valorem assessments for district purposes. County boards of supervisors are authorized to issue bonds, at no time to exceed $10 per acre, including outstanding district bonds, on the approval of two-thirds of the electors of the district. No districts have been formed under this act. (Stats. 1915, p. 1483.)

District Organization Act

This is an act relating to governmental units, and provides for the organization, operation, consolidation and dissolution of any tax or assessment district in the nature of a public agency or corporation of special or limited functions and powers. It makes available a uniform procedure for the organization and operation of such districts, but does not repeal or change any existing law, nor affect any district now existing. Its provisions become operative as to any given type of district only to the extent provided for by the statute which authorizes that particular type of district, and the procedure authorized by the principal act may provide for a variation from the details set out in the District Organization Act. (Stats. 1933, p. 2280.)

Palo Verde Irrigation District Act

This was a special act passed in 1923 for the organization of a district involving somewhat unusual conditions on the Colorado River in Riverside and Imperial counties. Prior to passage of the act, irrigation water was supplied by Palo Verde Mutual Water Company. There were also organized within the area Palo Verde Joint Levee District and Palo Verde Drainage each of which had outstanding bonds. Palo Verde Irrigation District consolidated these organizations, took over their obligations and became an irrigation, protection and reclamation district. Features of the act follow very closely the procedure of the California Irrigation District Act, although numerous amendments have been made. (Stats. 1931, p. 1062; amended Stats. 1925, p. 637; Stats. 1927, p. 972; Stats. 1931, pp. 29, 1890; Stats 1933, pp. 1961, 2191; Stats. Ex. Sess. 1934, pp. 25, 29; Stats 1935, pp. 486, 788; Stats. Ex. Sess. 1936, p. 3; Stats. 1937, p. 35.)

CHAPTER I

GENERAL PROVISIONS

The following laws are general in character and are assembled for convenient reference in connection with the California Irrigation District Act and other acts which are included in this bulletin.

USE OF WATER APPROPRIATED FOR DISTRIBUTION SUBJECT TO REGULATION

California Constitution, Article XIV, Sec. 1

The use of all water now appropriated, or that may hereafter be appropriated, for sale, rental, or distribution, is hereby declared to be a public use, and subject to the regulation and control of the State, in the manner to be prescribed by law * * *.

USE OF WATER RESOURCES—RIPARIAN RIGHTS RESTRICTED TO BENEFICIAL USE

California Constitution, Article XIV, Sec. 3

It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare. The right to water or to the use or flow of water in or from any natural stream or watercourse in this State is and shall be limited to such water as shall be reasonably required for the beneficial use to be served, and such right does not and shall not extend to the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water. Riparian rights in a stream or watercourse attach to, but to no more than so much of the flow thereof as may be required or used consistently with this section, for the purposes for which such lands are, or may be made adaptable, in view of such reasonable and beneficial uses; provided, however, that nothing herein contained shall be construed as depriving any riparian owner of the reasonable use of water of the stream to which his land is riparian under reasonable methods of diversion and use, or of depriving any appropriator of water to which he is lawfully entitled. This section shall be self-executing, and the Legislature may also enact laws in the furtherance of the policy in this section contained. (New section adopted November 6, 1928.)

LEGISLATURE AUTHORIZED TO PROVIDE FOR SUPERVISION OF DISTRICTS

California Constitution, Article XI, Sec. 13

The Legislature shall not delegate to any special commission, private corporation, company, association or individual any power to make, control, appropriate, supervise or in any way interfere with any county, city, town or municipal improvement, money, property, or effects, whether held in trust or otherwise, or to levy taxes or assessments or perform any municipal function whatever, except that the Legislature shall have power to provide for the supervision, regulation and conduct, in such manner as it may determine, of the affairs of irrigation districts, reclamation districts or drainage districts, organized or existing under any law of this State. (Amendment adopted November 3, 1914.)

EMINENT DOMAIN

California Constitution, Article I, Sec. 14

Private property shall not be taken or damaged for public use without just compensation having first been made to, or paid into court for, the owner, and no right of way or lands to be used for reservoir purposes shall be appropriated to the use of any corporation, except a municipal corporation or a county or the State or metropolitan water district, municipal utility district, municipal water district, drainage, irrigation, levee, reclamation or water conservation district, or similar public corporation until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefits from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a court of record, as shall be prescribed by law; provided, that in any proceeding in eminent domain brought by the State, or a county, or a municipal corporation, or metropolitan water district, municipal utility district, municipal water district, drainage, irrigation, levee, reclamation or water conservation district, or similar public corporation, the aforesaid State or municipality or county or public corporation or district aforesaid may take immediate possession and use of any right of way or lands to be used for reservoir purposes, required for a public use whether the fee thereof or an easement therefor be sought upon first commencing eminent domain proceedings according to law in a court of competent jurisdiction and thereupon giving such security in the way of money deposited as the court in which such proceedings are pending may direct, and in such amounts as the court may determine to be reasonably adequate to secure to the owner of the property sought to be taken immediate payment of just compensation for such taking and any damage incident thereto, including damages sustained by reason of an adjudication that there is no necessity for taking the property, as soon as the same can be ascertained according to law. The court may, upon motion of any party to said eminent domain proceedings, after such notice to the other parties as the court may prescribe, alter the amount of such security so required in such proceedings. The taking of private property for a railroad run by steam or electric power for logging or lumbering purposes shall be deemed a taking for a public use, and any person, firm, company or corporation taking private property under the law of eminent domain for such purposes shall thereupon and thereby become a common carrier. (Amendment adopted November 6, 1934.)

Code of Civil Procedure, Sec. 1241

Before property can be taken it must appear:

1. That the use to which it is to be applied is a use authorized by law;

2. That the taking is necessary to such use; provided, when the board of directors of an irrigation district, of a public utility district, or of a water district or the legislative body of a county, city and county, or an incorporated city or town, shall, by resolution or ordinance, adopted by vote of two-thirds of all its members, have found and determined that the public interest and necessity require the acquisition, construction or completion, by such county, city and county, or incorporated city or town, or irrigation, public utility, or water district, of any proposed public utility, or any public improvement, and that the property described in such resolution or ordinance is necessary therefor, such resolution or ordinance shall be conclusive evidence; (a) of the public necessity of such proposed public utility or public improvement; (b) that such property is necessary therefor, and (c) that such proposed public utility or public improvement is planned or located in the manner which will be most compatible with the greatest public good, and the least private injury; provided, that said resolution or ordinance shall not be such conclusive evidence in the case of the taking by any county, city and county, or incorporated city or town, or irrigation, public utility, or water district, of property located outside of the territorial limits thereof.

3. If already appropriated to some public use, that the public use to which it is to be applied is a more necessary public use; provided, that where such property has been so appropriated by any individual, firm or private corporation the use thereof for a public street or highway of the State, a county, city and county, or any incorporated city or town, or joint highway district, or the use thereof by the State, a county, city and county, or any incorporated city or town, or joint highway district, or a municipal water district or an irrigation district, a public utility district, or a water district for the same purposes to which it has been appropriated or for any public purpose, shall be deemed a more necessary use than the public use to which such property has been already appropriated; and provided, further, that property of any character, whether already appropriated to public use or not, including all rights of any nature in water, owned by any person, firm or private corporation may be taken by a county, city and county, or any incorporated city or town or by a municipal water district, or an irrigation district, a public utility district, or a water district, for the purpose of supplying water, or electricity for power, lighting or heating purposes to such county, city and county, or incorporated city or town, or municipal water district, or an irrigation

district, a public utility district, or a water district, or the inhabitants thereof, or for the purpose of supplying any other public utility, or for any other public use. And such taking may be made, either to furnish a separate and distinct supply of such water, and such electricity for power, lighting or heating purposes, or to provide for any such separate and distinct other public utility or other public use; to furnish such a supply or provide for any such other public utility or other public use in conjunction with any other supply or with any other public utility or other public use that may have been theretofore provided for or that may thereafter be provided for in so supplying or providing for such county, city and county, or incorporated city or town, or municipal water district or an irrigation district, a public utility district, or a water district, or the inhabitants thereof; or in conjunction with any other supply or with any other public utility or other public use that may have been theretofore determined upon or that may thereafter be determined upon in accordance with law by the people of any such county, city and county, incorporated city or town, or municipal water district or an irrigation district, a public utility district, or a water district. Nothing herein contained shall be construed as in any way limiting such rights as may be given by any other law of this State to counties, cities and counties, incorporated cities or towns or municipal water districts or irrigation districts, public utility districts, or water districts.

But private property appropriated to the use of any county, city and county, incorporated city or town, or municipal water district, or irrigation district, or public utility district, or water district, may not be taken by any other county, city and county, incorporated city or town, or municipal district, or irrigation district, or public utility district, or water district, while such property is so appropriated and used for the public purposes for which it has been so appropriated. (Amended, Stats. 1935, p. 939.)

An act regarding irrigation and declaring the same to be a public use.

(Approved May 1, 1911; Stats. 1911, p. 1407.)

Use of Water a Public Use

SECTION 1. Irrigation in the State of California is hereby declared to be a public necessity and a public use, and the power of eminent domain may be exercised on behalf of such public use in accordance with the provisions of Title VII, Part III of the Code of Civil Procedure of the State of California provided, that any person, firm or corporation, exercising the power of eminent domain and in control of water appropriated for sale, rental or distribution, shall not, by this act, be relieved from the duty of furnishing water to irrigate the lands over which any right of way is obtained by condemnation for irrigation purposes as required by an act entitled, "An act to regulate and control the sale, rental and distribution of appropriated water in this State, other than in any city, city and county, or town therein and to secure the rights of way for the conveyance of such water to the places of use," approved March 12, 1885, or any other law now in force in this State.

Certain Acts Not Affected

SEC. 2. This act shall not repeal or modify an act entitled, "An act to regulate and control the sale, rental and distribution of appropriated water in this State, other than in any city, city and county, or town therein, and to secure the rights of way for the conveyance of such water to the place of use," approved March 12, 1885, and other acts supplemental thereto and amendatory thereof, nor shall the same be construed to alter or change the law of the State of California as to the duty of any person, firm or corporation in charge of a public use to furnish water.

Effective Date

SEC. 3. This act shall be in force from and after its passage.

IRRIGATION DISTRICTS AUTHORIZED TO ACQUIRE STOCK OF WATER CORPORATIONS

California Constitution, Article IV, Sec. 31

The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to section 22 of this article; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever; provided, further, that irrigation districts for the purpose of acquiring the control of any entire international water system necessary for its use and purposes, a part of which is situated in the United States, and a part thereof in a foreign country, may in the manner authorized by law, acquire the stock of any foreign corporation which is the owner of, or which holds the title to the part of such system situated in a foreign country; provided, further, that irrigation districts for the purpose of acquiring water and water rights and other property necessary for their uses and purposes, may acquire and hold the stock of corporations, domestic or foreign, owning waters, water rights, canals, waterworks, franchises or concessions subject to the same obligations and liabilities as are imposed by law upon all other stockholders in such corporation; * * *

And provided, still further, that notwithstanding the restrictions contained in this constitution, the treasurer of any city, county, or city and county shall have power and it shall be his duty to make such temporary transfers from the funds in his custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by any city, county, city and county, district, or other political subdivision whose funds are in his custody and are paid out solely through his office. Such temporary transfer of funds to any political subdivision shall be made only upon resolution adopted by the governing body of the city, county, or city and county directing the treasurer of such city, county, or city and county to make such temporary transfer. Such temporary transfer of funds to any political subdivision shall not exceed 85 per cent of the taxes accruing to such political subdivision, shall not be made prior to the first day of the fiscal year nor after the last Monday in April of the current fiscal year, and shall be replaced from the taxes accruing to such political subdivision before any other obligation of such political subdivision is met from such taxes. * * * (Amendment adopted November 8, 1932.)

PROTECTION OF CANALS AND WORKS

Penal Code, Sec. 592

Water Ditches, Etc., Penalty for Trespass or Interference With

Every person who shall, without authority of the owner or managing agent, and with intent to defraud, take water from any canal, ditch, flume or reservoir used for the purpose of holding or conveying water for manufacturing, agricultural, mining, irrigating or generation of power, or domestic uses, or who shall without like authority, raise, lower or otherwise disturb any gate or other apparatus thereof, used for the control or measurement of water, or who shall empty or place, or cause to be emptied or placed, into any such canal, ditch, flume or reservoir, any rubbish, filth or obstruction to the free flow of the water is guilty of a misdemeanor. (Amended, Stats. 1899, p. 146.)

Penal Code, Sec. 627

Canal Banks and Rights of Way: Penalty for Trespass by Hunters

Every person who, for the purpose of hunting, pursuing, taking, killing or destroying any animal or bird, trespasses upon the canal banks or rights of way of any irrigation district or upon any other lands where signs are displayed not less than three to the mile along all exterior boundaries and at all roads and trails entering such lands forbidding such trespassing, without the written permission of the owner of such lands, or his agent, or the person in lawful possession thereof, or who maliciously tears down, mutilates or destroys any sign, signboard, or other notice forbidding hunting on such lands, is guilty of a misdemeanor.

Nothing in this section shall be construed as making the entering or use of any road or trail on such lands, canal banks or rights of way unlawful when entered and used for the purpose of communicating with the owner of such lands, or his agent, or the person in lawful possession of such lands. The provisions of this section shall not apply to any person employed as a hunter by the State or by the United States to hunt and destroy predatory animals, or birds, when acting in the course of his employment.

The terms "canal" and "rights of way" as used herein do not include the terms "lakes" or "reservoirs." (Amended, Stats. 1931, p. 321.)

Penal Code, Sec. 607

Bridges, Dams, Levees, Etc., Penalty for Destroying or Injuring

Every person who wilfully and maliciously cuts, breaks, injures or destroys any bridge, dam, canal, flume, aqueduct, levee, embankment, reservoir, or other structure erected to create hydraulic power, or to drain or reclaim any swamp, overflow, tide or marsh lands, or to store or conduct water for mining, manufacturing, reclamation, or agricultural purposes, or for the supply of the inhabitants of any city or town, or any embankment necessary to the same, or either of them, or wilfully or maliciously makes, or causes to be made, any aperture or plows up the bottom or sides in such dam, canal, flume, aqueduct, reservoir, embankment, levee, or structure, with intent to injure or destroy the same; or draws up, cuts or injures any piles fixed in the ground for the purpose of securing any sea bank, or sea walls, or any dock, quay or jetty, lock, or sea wall; or who, between the first day of October and the fifteenth day of April of each year, plows up or loosens the soil in the bed or on the side of any natural watercourse, reclamation or drainage ditch, with an intent to destroy the same without removing such soil within twenty-four hours from such watercourse, reclamation or drainage ditch, or who, between the fifteenth day of April and the first day of October of each year, shall plow up or loosen the soil in the bed or on the sides of such natural watercourse, reclamation or drainage ditch, with an intent to destroy the same and shall not remove therefrom the soil so plowed up or loosened before the first day of October next thereafter, is guilty of a misdemeanor, and upon conviction, punishable by a fine of not less than one hundred dollars and not exceeding one thousand dollars, or by imprisonment in the county jail, not exceeding two years, or by both; provided that nothing in this section shall be construed so as to in any manner prohibit any person from digging or removing soil from any such watercourse, reclamation or drainage ditch, for the purpose of mining. (Amended, Stats. 1931, p. 1530.)

INSTALLATION AND MAINTENANCE OF FISH SCREENS

An act to amend sections 535, 537, 538, 539, 540 and 541 of the Fish and Game Code, and to repeal sections 542, 543, 544, 545, 546 and 547 of the said code, all relating to the installation and maintenance of fish screens.

(Approved May 15, 1937, Stats. 1937, page 677.)

Examination to Determine Necessity of Screen

SECTION 1. Section 535 of the Fish and Game Code is hereby amended to read as follows:

535. The commission shall examine all conduits and order the owners to install and it is the duty of the owners of a conduit to install a screen on any conduit when, in the opinion of the commission, such a screen is necessary to prevent fish from passing into the

conduit. Except as provided in sections 536.9, 537 and 538, one-half of the expense of constructing or installing a screen shall be paid by the owner of a conduit, and one-half by the commission.

Acceptance of Screen

SEC. 2. Section 537 of said code is hereby amended to read as follows:

537. When a screen has been installed, the owner thereof may, by written notice within ninety days after such installation, request the commission to inspect the screen for the purpose of accepting the same. Thereupon it is the duty of the commission to inspect the screen, and if the same has been installed in accordance with the order and plans and specifications agreed upon by the commission and the owner as provided in section 541 of this article or approved by the Chief of the Division of Water Resources of the State of California, the commission must accept and approve the same in writing. If, upon such inspection it appears that the screen has not been constructed and installed in accordance with such plans and specifications it is the duty of the commission, within sixty days after such inspection, to notify the owner of any deviation from the order. Thereupon such deviation may be remedied within ninety days, and a further inspection requested.

Failure of Screen After Acceptance

SEC. 3. Section 538 of said code is hereby amended to read as follows:

538. After acceptance, should the screen fail to function in an efficient manner, no changes in conditions affecting its operation having occurred subsequent to the acceptance of the screen, then the owner shall not be required to install a new screen; provided, however, nothing herein contained shall prohibit the commission from installing another screen therein at the sole cost and expense of the commission and of the type, size, mesh, and at a location agreed upon by the commission and the owner, or approved by the Chief of the Division of Water Resources of the State of California, as provided in section 541 of this code.

Failure to Install Screen Unlawful

SEC. 4. Section 539 of said code is hereby amended to read as follows:

539. It is unlawful for the owner of a conduit to refuse, fail or neglect to install a screen in compliance with an order from the commission or to permit said screen to be removed or taken out of place except for repairs or cleaning while water is running in said conduit.

Commission May Elect to Install Screen

SEC. 5. Section 540 of said code is hereby amended to read as follows:

540. In lieu of the commission ordering the owner to install a screen as provided in section 535, 536, 536.5, 536.6, 536.7, 536.8, 537 and 538, the commission may, at its option, elect to construct and install the screen itself and in which event the type, size, mesh, and location of the screen and the time within which the screen shall be installed shall be determined as provided by section 541 of this code. In the

event the commission shall elect to construct and install the screen, one-half of the cost of construction and installation of such screen shall be paid by the owner. The commission may pay the entire cost of such construction and installation of such screen from the fish and game preservation fund and upon completion of such a screen notify the owner of one-half of the cost of such screen and the owner shall, within thirty days therefrom, remit one-half of the cost of said screen to the commission.

Chief of Division of Water Resources to Act As Arbiter

Sec. 6. Section 541 of the said code is hereby amended to read as follows:

541. Any screen installed under any of the provisions of this article shall be such as will be reasonably adequate to prevent fish from passing into the conduit and such as will not unnecessarily impede the flow of water or prevent the owner from diverting the amount of water he is legally entitled to divert. The type, size, mesh and location of the screen and the time within which the screen shall be installed shall be mutually agreed upon by the commission and the owner of the conduit. In the event the commission and the owner of the conduit can not agree upon the type, size, mesh and location of the screen and the time within which the same shall be installed, such matters shall be submitted to the Chief of the Division of Water Resources of the State of California whose decision thereon shall be final and conclusive. If the owner and the commission shall fail to agree upon the type, size, mesh and location of the screen and the time within which the screen shall be installed within sixty days from the first submission of the proposed plans and specifications by the commission to the owner, either the commission or the owner may submit such matters, in writing to the Chief of the Division of Water Resources for final and conclusive decision and he shall within sixty days from such reference render his decision in writing determining such matters. The commission shall maintain and keep the screen in repair and shall quarterly notify the owner in writing of the cost of such maintenance and repairs and the owner shall within thirty days remit to the commission one-half of the said cost. The owner of the conduit shall operate and keep free from debris any screen heretofore or hereafter installed and shall quarterly notify the commission in writing of such cost of such operation and keeping the screen free of debris and the commission shall within thirty days remit to the owner one-half of the said cost. Before the installation of any screen, under the provisions of this article, the commission and the owner shall enter into an agreement defining the method of determining the cost of maintenance, repairs, operation and keeping the screen free of debris, and the agreement shall provide that in the event either the commission or the owner object to such costs, then such costs shall be referred to the Director of Finance for his final and conclusive decision.

Sec. 7. Sections 542, 543, 544, 545, 546 and 547 of the said code is hereby repealed.

PREVENTING OBSTRUCTION OF, OR INJURIES TO HIGHWAYS

Political Code, Sec. 2737

Injury to Highway by Drainage or Seepage Water

Whoever obstructs or injures any highway, or diverts any watercourse thereon, or drains water from his land upon any highway, to the injury thereof, by means of ditches or dams, is liable to a penalty of ten dollars for each day such obstruction or injury remains, and must be punished as provided in section 588 of the Penal Code. Any person, persons, or corporation who shall be storing or distributing water for any purpose, and shall permit the water to overflow or saturate, by seepage, any highway, to the injury thereof, shall, upon notification of the road commissioner of the district where such overflow or seepage occurs, repair the damages occasioned by such overflow or seepage; and should such repair not be made within a reasonable time by such person, persons, or corporation, said road commissioner shall make such repairs, and recover the expense thereof from such person, persons, or corporation, in an action at law. All persons excavating irrigation, mining, or draining ditches across public highways shall be required to bridge said ditches at such crossings, and upon neglect to do so, the road commissioner for that road district shall construct the same and recover the cost of constructing said bridge or bridges of such persons by action, as provided in this section; provided, that the supervisors of any county may construct and maintain bridges over any and all ditches used exclusively for irrigation purposes, and which cross public highways in the county over which they have authority, and may, with the consent of the owners of such ditches, declare any and all such bridges to be public property, and maintain and keep the same in repair at the expense of such county. And whoever wilfully injures any public bridge is hereby declared to be guilty of a misdemeanor, and is also liable for actual damages for such injury, to be recovered by the county in a civil action; provided, further, that every person who knowingly allows the carcass of any dead animal (which animal belonged to him at the time of its death) to be put or to remain within one hundred feet of any street, alley, public highway, or road in common use, and every person who puts the carcass of any dead animal within one hundred feet of any street, alley, highway, or road in common use, or who shall deposit on any highway any refuse or waste tin, sheet-iron, or broken glass, is guilty of a misdemeanor. (Amended, Stats. 1897, p. 217.)

Civil Code, Sec. 551

Water Conduits Not to Obstruct Highways

No canal, flume, or other appliance for the conducting of water must be so laid, constructed, or maintained as to obstruct any public highway; and every person or corporation owning, maintaining, operating or using any such canal, flume, or appliance, crossing or running along any public highway, must construct, maintain, and keep in repair such bridges across the same as may be necessary to the safe and convenient use of such highway by the public; and on failure so to do, the board of supervisors of the county, after seven days' notice in writing to said person or corporation, may construct or repair such bridge or bridges, and recover of such person or corporation the amount of expenditure made in so doing; provided, however, that bridges heretofore or hereafter constructed in a permanent manner and approved by the county engineer, or the county board of supervisors, by irrigation districts, or other quasi municipal corporations, or public corporations, or private corporations or persons, over irrigation ditches or drainage ditches, must, after such construction and acceptance as aforesaid, be maintained and kept in repair by the county in which said bridges are situated and the cost of such maintenance and repair must be borne by such county. (Amended, Stats. 1927, p. 589.)

Civil Code, Sec. 844

Rights of Persons Associated in the Use of Ditches, Flumes, Pipe Lines or Conduits

When two or more persons are using any ditch, flume, pipe line or other conduit for the conveyance of water or any part thereof for the irrigation of land or for any other lawful purpose, to the construction of which they or their grantors have contributed, and which is not under the control or management of any public agency or authority, a majority of such users, who have the right to the use of more than fifty per centum of the water in such ditch, flume, pipe line or other conduit, may bring an action in the superior court of the county in which said ditch, flume, pipe line or other conduit for the conveyance of water or some part thereof, is situated, for a declaration of the respective rights of the users of water in such ditch, flume, pipe line or other conduit; including a determination of the manner in which such ditch, flume, pipe line or other conduit for the conveyance of water shall be administered with respect to repair, up-keep, improvement and otherwise. The decree or judgment in said action shall include a determination of the proportionate amount which all users shall contribute to the maintenance, repair, improvement and otherwise of said ditch, flume, pipe line or other conduit. The court shall determine the manner in which all improvements, repairs, maintenance and otherwise shall be authorized, and thereafter no user of such ditch, flume, pipe line or other conduit may make claim for any funds expended for improvements, repairs, maintenance and otherwise except as determined by the court in said action. No authorization for such claim shall be valid except as made under the authority set forth by the decree or judgment of the court.

The complaint must contain the name of all users, if known, or a statement that they are unknown, who must be styled defendants.

The summons must contain the names of the parties, and an order to the defendants to appear and show cause why the determination of rights as prayed for in the complaint should not be granted. In all other particulars it must be in the form of a summons in civil actions, and must be served in like manner. (Added, Stats. 1935, p. 1069.)

CONSTRUCTION OF PUBLIC WORKS

BY DAY'S LABOR OR FORCE ACCOUNT

An act relating to the doing of public work by day's labor or force account, except emergency and maintenance work and work costing less than ten thousand dollars; requiring the State Highway Engineer, State Engineer, the State Architect, county engineers, county surveyors, city and county engineers, county highway engineers, road commissioners, city engineers, commissioners of public works, superintendents of streets, harbor engineers, flood control engineers, and the engineers of any reclamation, irrigation or other districts, political subdivisions or agencies of the State directing, supervising or superintending such work, or in charge of the engineering for or in connection therewith, to keep the costs, prepare and file plans, specifications and estimates of cost, and, upon completion, prepare and file certificates of cost thereof; and providing for the keeping of such plans, specifications and certificates as public records.

(Approved June 21, 1923, Stats. 1923, p. 1053; amended Stats. 1925, p. 292.)

Plans and Records for Public Work Performed by Day's Labor or Force Account

SECTION 1. It shall be the duty of the State Highway Engineer, the State Engineer, the State Architect, and of every county engineer, county surveyor, city and county engineer, county highway engineer, road commissioner, city engineer, Commissioner of Public Works, superintendent of streets, harbor engineer, flood control engineer, the engineer of any board or commission of the State, the engineer of any board or commission of any city or city and county, and the engineer of any reclamation, irrigation or other district, political subdivision or agency of the State directing, supervising or superintending the construction, or in charge of engineering work for or in connection with the construction of any bridge, road, street, highway, ditch, canal, dam, tunnel, excavation, building or structure within the State by day's labor or force account, except maintenance work, work occasioned by emergency and work costing less than five thousand dollars, to keep an accurate account of the cost of such work; to prepare and file in his office, prior to the commencement of the work, full, complete and accurate plans and specifications, and an estimate of the cost thereof, except where other and adequate provision is made by law requiring the preparation and filing of such plans, specifications and estimates of cost by some other officer, or in some other office; and within sixty days from the completion of any such work, to prepare and file in the office of the county clerk of the county in which the work is performed, or if any such reclamation, irrigation or other district maintains an office, then in the office of his own such district instead of the office of the county clerk, a certificate in writing verified by him in the same manner as complaints in civil actions, setting forth the estimate of cost, names of bidders with prices bid, if bids there be, changes in adopted or approved plans and specifications, that the work performed has or has not been done in accordance with such plans and specifications, a list of any publicly-owned equipment used in the work, and an itemized statement of the actual cost of all labor, materials, rentals, repairs, compensation and other insurance, transportation of labor, equipment and materials, engineering or architectural services including the services of public employees in connection with such work, and any and all cost entering into the work performed, including a reasonable amount for depreciation of publicly-owned equipment used in the work and the cost of repairs thereon while so used. (Amended, Stats. 1925, p. 292.)

Public Inspection of Records

SEC. 2. Such plans, specifications and certificates shall be open to inspection and examination as a public record.

Penalty

SEC. 3. Every such public officer or public employee mentioned in section 1 of this act who wilfully violates any of the provisions of this act is guilty of a misdemeanor. (Amended, Stats. 1925, p. 293.)

SECURITY FOR CLAIMS AGAINST CONTRACTOR

An act to secure the payment of claims of persons employed by contractors upon public works, and the claims of persons who furnish materials, supplies, teams, implements or machinery used or consumed by such contractors in the performance of such works, and prescribing the duties of certain public officers with respect thereto.

(Approved May 10, 1919, Stats. 1919, p. 487; amended Stats. 1925, p. 538; Stats. 1927, p. 282.)

Bond of Contractor on Public Work

SECTION 1. Every contractor, person, company, or corporation, to whom is awarded a contract involving an expenditure in excess of one hundred dollars for the improvement, erection or construction of any building, road, bridge or other structure, excavating, or other mechanical work for this State, or for any political subdivision or agency of the State shall, before entering upon the performance of such work, file with the commissioners, managers, trustees, officers, board of supervisors, board of trustees, common council, or other body by whom such contract was awarded, a good and sufficient bond, to be approved by such contracting body, officer or board, in a sum not less than one-half of the total amount payable by the terms of the contract; provided, that whenever the total amount, payable by the terms of any such contract shall be not less than five million dollars or more than ten million dollars, a bond in a sum not less than one-fourth of the amount payable under the terms of the contract may be accepted and if the amount payable under any such contract exceeds the sum of ten million dollars, a bond in the sum of two million five hundred thousand dollars shall be sufficient; such bond shall be executed by either two or more good and sufficient sureties or by corporate surety as provided by law, in an amount not less than the sum specified in the bond, and must provide that if the contractor, person, company, or corporation, or his or its subcontractors, fail to pay for any materials, provisions, provender or other supplies, or teams, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, that the surety or sureties will pay for the same, in an amount not exceeding the sum specified in the bond, and also, in case suit is brought upon such bond, a reasonable attorney's fee, to be fixed by the court. Such bond must by its terms inure to the benefit of any and all persons, companies and corporations entitled to file claims under this act so as to give a right of action to them or their assigns in any suit brought upon said bond. Unless such bond is filed as herein provided, no claim in favor of the contractor arising under such contract shall be audited, allowed, or paid by any public officer of this State, or of any political subdivision or State agency, but persons who have in good faith, performed work upon such contract, or supplied materials for the execution thereof, shall, upon giving the notice prescribed in section 2 hereof, be entitled to receive payment of their respective claims in the manner provided by sections 1184, 1184a, 1184b, and 1184c of the Code of Civil Procedure. (Amended, Stats. 1927, p. 283.)

Filing of Claims by Materialmen, Laborers, and Others

SEC. 2. Any materialman, person, company or corporation furnishing materials, provisions, provender or other supplies used in, upon, for or about the performance of the work contracted to be executed or performed, or any person, company or corporation renting or hiring teams or implements or machinery for or contributing to said work to be done, or any person who performed work or labor upon the same, or any person who supplies both work and materials, and whose claim has not been paid by the contractor, company, or corporation, to whom the contract has been awarded, or by the subcontractors of said contractor, company, or corporation, may at any time prior to the expiration of the period within which claims of lien must be filed for record as prescribed by section 1187 of the Code of Civil Procedure file with the commissioners, managers, trustees, officers, board of supervisors, board of trustees, common council, or other body by whom such contract was awarded, or with the controller, auditor, or other public disbursing officer whose duty it is to make payments under the provisions of such contract a verified statement of such claims, together with a statement that the same have not been paid. It shall be lawful for the State or any public board, commission, or officer thereof, or any political subdivision thereof, within ten days after the completion of any contract or structure, or work of improvement, provided for in this act, or within ten days after there has been a cessation from labor thereon for a period of thirty days, to file for record in the office of the county recorder of the county or counties where the property is situated, a notice setting forth the date when the same was completed or on which cessation from labor occurred, together with the name of the State or such public board, commission or officer thereof, or such political subdivision thereof and a description of the property or public work or structure sufficient for identification and the name of the contractor or contractors, the names of the sureties, if any, which notice shall be verified by some officer of the State or some member of such board, commission or officer thereof, or of such political subdivision thereof, and in case such notice be not so filed, the failure to so file shall have the same effect as is provided in section 1187 of the Code of Civil Procedure with reference to the "owner." Actions against the State, public board, commission, or officer thereof, or the political subdivision of the State, or the disbursing officer whose duty it is to make payments under the provisions of the contract for the public improvement in question, brought by any claimant who has filed claim under this act, or his assign, shall be governed by the provisions of sections 1184, 1184a, 1184b, and 1184c of the Code of Civil Procedure and the verified notice provided for in the said sections shall be equivalent for all purposes to the verified claim provided for herein.

No assignment by the contractor of the whole or any part of the money due him or to be due him under the contract or for "extras" in connection therewith, whether made before a verified claim is filed as provided for herein or after said claim is filed, shall be held to take priority over claims filed under this section and such assignment shall have no binding force in so far as the rights of the claimants who file claims thereunder, or their assigns, are concerned; provided, that nothing in this section shall be constructed to prohibit the payment of any money to the contractor or his assigns, so long as no verified claim is on file before the disbursing officer shall have actually surrendered possession of the warrant, checks, bonds, or money or the payment to said contractor or his assigns of any money due him or his assigns over and above the total amount of the claims filed at that time plus such interest and court costs as might be reasonably anticipated in connection with said claims.

Suit against the surety or sureties on the bond of the contractor required under section 1 hereof, may be brought by any claimant, or his assign, at any time after the claimant has ceased to perform labor or furnish material or both and until the expiration of six months after the period in which verified claims may be filed as provided herein. The filing of a verified claim shall not be a condition precedent to the maintenance of such action against the surety or sureties on the bond and an action on such bond may be maintained separately from and without the filing of an action against the board, commission, officer or other body by whom such contract was awarded. And upon the trial of any such action, the court shall award to the prevailing party a reasonable attorney's fee, to be taxed as costs, and to be included in the judgment therein rendered.

If the contractor, subcontractor or other person against whom any claim is filed as provided in this act shall dispute the correctness or validity of any claim so filed it shall be lawful for the controller, auditor or other public disbursing officer whose duty it is to make payments under the provisions of such contract or the commissioner, managers, trustees, officers, board of supervisors, board of trustees, common council or other body by whom the contract for the improvement was awarded, in its or his discretion, to permit the contractor to whom said contract was awarded to deliver to such board, commission or officer a bond executed by some corporation authorized to issue surety bonds in the State of California, in a penal sum equal to one and one-fourth times the amount of said claim, which said bond shall guarantee the payment of any sum which said claimant may recover on said claim together with his costs of suit in said action, if he shall recover therein, and upon the filing of said bond by and with the consent of such board, commission or officer, then such board, commission or officer shall not withhold any moneys from said contractor on account of said claim. The sureties upon said bond shall be jointly and severally liable to said claimant with the sureties upon the bond given in accordance with section 1 of this act. (Amended, Stats. 1925, p. 539.)

Repeal of Chapter 140, Statutes of 1897

SEC. 3. The act entitled "An act to secure the payment of the claims of materialmen, mechanics, or laborers, employed by contractors upon State, municipal, or other public work," approved March 27, 1897, and all acts amendatory thereof are hereby repealed; saving to all persons, however, all rights which have accrued under the provisions of said statutes, or any thereof.

PRESENTATION OF FALSE CLAIMS

Penal Code, Sec. 72

Every person who, with intent to defraud, presents for allowance or for payment to any State board or officer, or to any county, town, city, district, ward or village board or officer, authorized to allow or pay the same if genuine, any false or fraudulent claim, bill, account, voucher, or writing, is guilty of a felony. (Amended, Stats. 1927, p. 790.

WAGES AND HOURS OF LABOR

Labor Code

Definitions

SEC. 1720. As used in this chapter "public works" means:

(a) Construction or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by any public utility company pursuant to order of the Railroad Commission or other public authority.

(b) Work done for irrigation, utility, reclamation and improvement dsitricts, and other districts of this type. "Public work" shall not include the operation of the irrigation or drainage system of any irrigation or reclamation district, except as used in sections 1850 to 1854 of this code relating to employment of aliens, and section 1778 relating to retaining wages.

(c) Street, sewer or other improvement work done under the direction and supervision or by the authority of any officer or public body of the State, or of any political subdivision or district thereof, whether such political subdivision or district operates under a freeholder's charter or not.

SEC. 1721. "Political subdivision" includes any county, city, district, township or public agency of the State, and assessment or improvement districts.

SEC. 1724. "Locality in which public work is performed" means the county in which the public work is done in cases in which the contract is awarded by the State, and means the limits of the political subdivision on whose behalf the contract is awarded in other cases.

Taking Cognizance of Law Violations

SEC. 1726. The body awarding the contract for public work shall take cognizance of violations of the provisions of this chapter committed in the course of the execution of the contract.

Withholding Sums Forfeited

SEC. 1727. Before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain therefrom all amounts which have been forfeited pursuant to any stipulation in a contract for public work, and the terms of this chapter. But no sums shall be withheld, retained or forfeited, except from the final payment, without a full investigation by either the Division of Labor Statistics and Law Enforcement or by the awarding body.

When Payment Made by Warrants

SEC. 1728. In cases of contracts with assessment or improvement districts where full payment is made in the form of a single warrant, or other evidence of full payment, after completion and acceptance of the work, the awarding body shall accept from the contractor in cash a sum equal to, and in lieu of, any amount required to be withheld, retained, or forfeited under the provisions of this section, and said awarding body shall then release the final warrant or payment in full.

Withholding Sums Due Subcontractor

SEC. 1729. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of the subcontractor's failure to comply with the terms of this chapter, and if payment has already been made to the subcontractor the contractor may recover from him the amount of the penalty or forfeiture in a suit at law.

Determination of General Prevailing Rate

SEC. 1770. The body awarding the contract, or authorizing the public work shall determine the general prevailing rate of per diem wages and its decision in the matter shall be final. Nothing in this article, however, shall prohibit the payment of more than the general prevailing rate of wages to any workman employed on public work. Nothing in this act shall permit any overtime work in violation of Article 3 of this chapter.

Payment of General Prevailing Rate

SEC. 1771. Not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work shall be paid to all workmen employed on public works, exclusive of maintenance work.

Employees of Contractors or Subcontractors

SEC. 1772. Workmen employed by contractors or subcontractors in the execution of any contract for public work are deemed to be employed upon public work.

Specifications in Calls for Bids

SEC. 1773. The body awarding any contract for public work, or otherwise undertaking any public work, shall ascertain the general prevailing rate of per diem wages in the locality in which the public work is to be performed for each craft or type of workmen needed to execute the contract, and shall specify in the call for bids for the contract, and in the contract itself, what the general prevailing rate of per diem wages and the general prevailing rate for legal holiday and overtime work in the locality is for each craft or type of workman needed to execute the contract.

Payment by Contractors and Subcontractors

Sec. 1774. The contractor to whom the contract is awarded, and any subcontractor under him, shall pay not less than the specified prevailing rates of wages to all workmen employed in the execution of the contract.

Forfeiture

Sec. 1775. The contractor shall, as a penalty to the State or political subdivision on whose behalf the contract is made or awarded, forfeit ten dollars for each calendar day, or portion thereof, for each workman paid less than the stipulated prevailing rates for any public work done under the contract by him or by any subcontractor under him, and the body awarding the contract shall cause to be inserted in the contract a stipulation to this effect.

Records of Wages Paid

Sec. 1776. Every contractor and subcontractor shall keep an accurate record showing the name, occupation, and the actual per diem wages paid to each workman employed by him in connection with the public work. The record shall be kept open at all reasonable hours to the inspection of the body awarding the contract and to the Division of Labor Statistics and Law Enforcement.

Penalty

Sec. 1777. Any officer, agent, or representative of the State or of any political subdivision who wilfully violates any provision of this article, and any contractor, or subcontractor, or agent or representative thereof, doing public work who neglects to comply with any provision of section 1776 is guilty of a misdemeanor.

Application of Penalties

Sec. 1781. The penalties and remedies provided for in sections 1775 and 1777 shall be the exclusive penalties and remedies against any contractor or subcontractor for any violation of sections 1770 to 1777 or of the provisions inserted in any call for bids, specifications or contracts pursuant thereto.

Maximum Hours Per Day

Sec. 1811. The time of service of any workman employed upon public work is limited and restricted to eight hours during any one calendar day.

Prohibition of Employment for More Than Maximum Hours

Sec. 1812. No awarding body or contractor or subcontractor who employs, directs, or controls the work of any workman employed on public work, shall require or permit such workman to labor more than eight hours during any one calendar day, except in cases of extraordinary emergency, caused by fire, flood, or danger to life or property or except on work upon public military or naval defenses or works in time of war.

Reports of Extraordinary Emergencies

SEC. 1813. Within thirty days after any workman is permitted to work over eight hours in one calendar day due to such an extraordinary emergency, the contractor doing the public work shall file with the awarding body a verified report setting forth the nature of the emergency. The report shall contain the name of the workman and the hours worked by him on the particular day. Failure to file the report within the thirty day period shall be prima facie evidence that no extraordinary emergency existed.

Record of Hours of Labor

SEC. 1814. Every contractor and subcontractor shall keep an accurate record showing the name of and actual hours worked by each workman employed by him in connection with the public work. The record shall be kept open at all reasonable hours to the inspection of the awarding body and to the Division of Labor Statistics and Law Enforcement.

Stipulation for Payment of Penalty

SEC. 1815. In awarding any contract, the execution of which involves or may involve the employment of any workman upon public work, the awarding body shall cause to be inserted therein a stipulation which provides that the contractor to whom the contract is awarded shall forfeit as a penalty, to the State, or political subdivision in whose behalf the contract is made and awarded, ten dollars for each workman employed in the execution of the contract by the contractor or by any subcontractor for each calendar day during which any workman is required or permitted to labor more than eight hours in violation of the provisions of this article. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of a contract, and shall report them to the officer of the State or political subdivision, party to the contract, who is authorized to pay the contractor money due him under the contract.

Penalty

SEC. 1816. Any officer, agent, or representative of the State or any political subdivision who violates any provision of this article and any contractor or subcontractor or agent or representative thereof doing public work who neglects to comply with any provision of section 1814 is guilty of a misdemeanor.

APPOINTMENT OF DEPUTIES

Political Code, Sec. 4024

Every county, township or district officer, except a supervisor or judicial officer, and every marshal of municipal court or clerk of municipal court, may appoint as many deputies as may be necessary for the prompt and faithful discharge of the duties of his office. Such appointment must be made in writing, and filed in the office of the county clerk, and a copy thereof, in the case of such deputies receiving compensation for their official duties, filed in the office of the county auditor. Until such appointment is so made and filed, and the copy thereof, when herein required, is so filed, and until such deputy shall have taken the oath of office, no one shall be or act as such deputy. Upon the revocation of the appointment of any such deputy, such revocation must be made and filed in the same manner as is herein provided for the making and filing of his appointment. (Amended, Stats. 1931, p. 1889.)

PAYMENT OF PREMIUMS ON OFFICIAL BONDS

An act to provide for the payment by the State or counties or school districts or other special districts, or cities, or cities and counties, of the premium or charge on official bonds when given by surety companies.

(Approved March 25, 1903, Stats. 1903, p. 476; amended, Stats. 1931, p. 1391.)

SECTION 1. The premium or charge for bonds given by surety companies for State officials, county officials, township officials, school district officials, other special district officials, city officials, or city and county officials, or the deputies, clerks, assistants or subordinate officers of said officials shall be paid by the State, county, school district, other special district, city, or city and county, respectively; provided that no premium or charge shall exceed one-half of one per cent per annum on the amount of such bond and provided, further, that this act shall not apply to notaries public and provided, further, that in cases of township officials the premium shall be paid by the county in which the township is situate and provided, further, that the payment of premiums for the official bonds of deputies, clerks, assistants or subordinate officers of county officers shall not be a county charge unless the amount fixed for such bond has been approved by the board of supervisors.

PLANS AND SPECIFICATIONS FOR DISTRIBUTION SYSTEM FOR CITY TO BE PREPARED BY PUBLIC AGENCY

An act to provide for work in and upon public streets, avenues, lanes, alleys, courts, places, sidewalks, highways, roads, and other public property and rights of way in whole or in part including property over which possession and right of use has been obtained under the provisions of section 14 of Article I of the Constitution within municipalities, * * *.

(Approved Aril 7, 1911, Stats. 1911, p. 730; amended, Stats. 1931, p. 1939.)

SEC. 4½. In every case where the work proposed to be done includes the laying of conduits, pipes, hydrants, or any appliance for the supplying or distributing of a domestic water supply, and the distribution of such domestic water supply in the territory in which the improvement is contemplated is under the management and control of a municipal water district, a municipal utility district, a public utility district, a metropolitan water district, or any public agency other than the city or municipality ordering any work done or improvement to be made which is authorized by this act, the said conduits, pipes, hydrants, or other appurtenances for supplying or distributing such domestic water supply shall be installed under the following proceedings, which must be taken prior to the adoption of the resolution of intention, to wit:

Before requiring the plans, specifications and estimates provided for in section 8 of this act the city council shall pass a resolution requesting the public agency having charge of the supplying and distribution of the domestic water supply in the district about to be improved to furnish to the city council plans and specifications for adequate and appropriate conduits, pipes, hydrants and other appurtenances necessary for that purpose. It shall thereupon become the duty of such public agency to furnish said plans and specifications so required, and said plans and specifications shall be submitted to the city council for its approval. The city council may adopt said plans and specifications, but may not modify or change the same except with the consent of the public agency furnishing said plans and specifications, and if no agreement can be reached the said conduits, pipes and other appurtenances for supplying said water shall be omitted from the contemplated improvement. If the said plans and specifications are adopted by the city council it shall be the duty of the city engineer to incorporate said plans and specifications in the plans and specifications furnished by him to the city council, as required by section 8 of this act, and the said plans and specifications shall thereupon be deemed incorporated in the plans and specifications for doing the work, and the public agency which supplies said plans and specifications may at all times maintain an inspector over the work and improvement to see that the plans and specifications which it has furnished have been complied with, and the cost of such inspection shall form a part of the incidental expenses of the work and be incorporated in the assessment as a part thereof.

After the work has been completed and accepted, the said pipes, conduits and other appliances for supplying or distributing water so installed shall be and become a part of the system of the said public agency so supplying the water, and shall at all times thereafter be used, operated, maintained, and managed by it as a part of such system. (Added, Stats. 1931, p. 1940.)

LIABILITY OF PUBLIC AGENCIES AND THE OFFICERS AND EMPLOYEES THEREOF

Vehicle Code, Section 400 (Stats. 1935, p. 93, 152)

Liability of Governmental Agencies. The State, and every county, city and county, municipal corporation, the State Compensation Insurance Fund, irrigation district, school district, district established by law and political subdivision of the State owning any motor vehicle is responsible to every person who sustains any damage by reason of death, or injury to person or property as the result of the negligent operation of any said motor vehicle by an officer, agent, or employee or as the result of the negligent operation of any other motor vehicle by any officer, agent or employee when acting within the scope of his office, agency or employment; and such person may sue the State, county, city and county, municipal corporation, the State Compensation Insurance Fund, irrigation district, school district, district established by law and political subdivision of the State, as the case may be, in any court of competent jurisdiction in this State in the manner directed by law. In every case where a recovery is had under the provisions of this section against the State, any county, city and county, municipal corporation, the State Compensation Insurance Fund, irrigation district, school district, district established by law and political subdivision of the State, then the State, or the county or city and county, municipal corporation, the State Compensation Insurance Fund, irrigation district, school district, district established by law and political subdivision of the State shall be subrogated to all the rights of the person injured, against the officer, agent or employee, as the case may be, and may recover from such officer, agent or employee, the total amount of any judgment and costs recovered against the State, county, city and county, municipal corporation, the State Compensation Insurance Fund, irrigation district, school district, district established by law and political subdivision of the State in such case, together with costs therein.

And the State, county, city and county, municipal corporation, the State Compensation Insurance Fund, irrigation district, school district, district established by law and political subdivision of the State may insure their liability in any insurance company authorized to transact the business of such insurance in the State of California, and the premium for such insurance shall be a proper charge against the respective general fund of the State, county, city and county, municipal corporation, the State Compensation Insurance Fund, irrigation district, school district, district established by law and political subdivision of the State, as the case may be.

Insurance Code, Sec. 11870

Public Employees

The State, any agency, department, division, commission, board, bureau, officer or other authority thereof, and each county, city and county, city, school district, irrigation district, any other district established by law, or other public corporation or quasi public corporation within the State, excluding any public utility operated by a private corporation may insure against its liability for compensation with the State compensation insurance fund and not with any other insurer unless such fund refuses to accept the risk when the application for insurance is made. Where the State or any agency, department, division, commission, board, bureau, officer or authority thereof is the insured, the premium for such insurance shall be a proper charge against any moneys appropriated for the support of or expenditure by the insured, except that in the case of an insured supported by or authorized to expend moneys appropriated out of more than one fund, the insured, with the approval of the Director of Finance, may determine the proportion of such premium to be paid out of each fund. In such case the insured, with the approval of the Director of Finance, may pay the entire premium out of any of such funds and thereafter the funds used for payment shall be reimbursed in proper proportion out of such other funds. In case a county, city and county, city, school district, irrigation district, or other district established by law, or other public corporation or quasi public corporation within the State is the insured, the premium therefor shall be a proper charge against the general fund of such insured. (Amended by Ch. 202, Stats. 1935.)

Civil Code, Sec. 3342

Immunity of Officers and Employees Under Unconstitutional Statutes

A State, county, district, or municipal officer, agent, or employee, or any officer, agent, or employee of any political subdivision, acting in good faith and without malice under the apparent authority of any law of this State, whether enacted by the Legislature or by the people of the State through initiative action, which law subsequently is judicially declared to be unconstitutional as in conflict with the Constitution of this State or of the United States, shall not be held civilly liable in any action in which he would not have been liable if such law had not been declared unconstitutional, nor shall he be liable to any greater extent than he would have been if such law had not been declared unconstitutional.[1] (Amended, Stats. 1933, p. 2707.)

Code of Civil Procedure, Sec. 170, Sub. 6

Disqualification of Judges

Actions or proceedings in which judge or justice may not sit or act: Disqualification and proceedings thereon. No justice, judge or justice of the peace shall sit or act as such in any action or proceeding:

(6) Proceedings involving reclamation board, irrigation districts, etc. In an action or proceeding brought in any court by or against the Reclamation Board of the State of California, or any irrigation, reclamation, levee, swamp land or drainage district, or any public agency, or trustee, officer or employee thereof, affecting or relating to any real property, or an easement or right of way, levee, embankment, canal, or any work provided for or approved by the Reclamation Board of the State of California, a judge of the superior court of the county, or a judge of the municipal court of the city, or a justice of the peace of the township, in which such real property, or any part thereof, or such easement or right of way, levee, embankment, canal or work, or any part thereof is situated shall be disqualified to sit or act, and such action shall be heard and tried by some other judge, or justice, requested to sit therein by the chairman of the judicial council, unless the parties

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[1] Chapter 1053, Statutes of 1933, which amended section 3342 of the Civil Code, also contained the following:

"SEC. 2. The provisions of this act shall supersede the provisions of section 3342 of the Civil Code contained in Chapter 248 of the Statutes of 1933. It is hereby declared to be the intent of the Legislature that said provisions contained in said chapter shall be without effect as to any portion thereof which conflicts with this act.

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution, and shall therefore go into effect immediately. The following is a statement of the facts constituting such necessity:

There are at the present time many irrigation, reclamation and other districts operating in this State under general statutes the constitutionality of which has never been determined by the higher State courts. For this reason the officers of such districts are hesitant about performing certain of their duties provided by said statutes, thereby jeopardizing the best interests of the people of such districts. The provisions of this act will relieve district officers, agents and employees of any greater liability which would result if the statute under which they act is subsequently declared unconstitutional."

to the action shall sign and file in the action or proceeding a stipulation in writing, waiving the disqualification in this subdivision of this section provided, in which case such judge or justice may proceed with the trial or hearing with the same legal effect as if no such legal disqualification existed. If, however, the parties to the action shall sign and file a stipulation, agreeing upon some other judge or justice to sit or act in place of the judge or justice disqualified under the provisions of this subdivision, the judge or justice agreed upon shall be called by the judge or justice so disqualified to hear and try such action or proceeding; provided, that nothing herein contained shall be construed as preventing the judge of the superior court of such county, or of the municipal court of such city, from issuing a temporary injunction or restraining order, which shall, if granted, remain in force until vacated or modified by the judge designated as herein provided.

Civil Code, Sec. 1007

Title by prescription, how acquired. Certain classes of governmental property exempt

Occupancy for the period prescribed by the Code of Civil Procedure as sufficient to bar any action for the recovery of the property confers a title thereto, denominated a title by prescription, which is sufficient against all, but no possession by any person, firm or corporation no matter how long continued of any land, water, water right, easement, or other property whatsoever dedicated to or owned by any county, city and county, city, irrigation district, public or municipal corporation or any department or agency thereof, shall ever ripen into any title, interest or right against such county, city and county, city, public or municipal corporation, irrigation district, or any department or agency thereof or any agency created or authorized by the Constitution or any law of this State for the administration of any State school, college or university. The exemption of certain classes of governmental property is intended as a limitation and shall not be deemed to subject to the operation of this section any classes of governmental property which would not otherwise be subject thereto. (Enacted 1872; amended by Stats. 1935, p. 1592.)

CHAPTER II

CALIFORNIA DISTRICT SECURITIES COMMISSION ACT AND RELATED LAWS

Preliminary Statement

The California Irrigation District Act provides that before the board of directors of an irrigation district may call an election for the issuance of bonds to provide funds for the purpose of constructing or acquiring works or other property, it must submit the plans and estimates of cost of such proposed works or property, and the amount of bonds it desires to issue, to the California District Securities Commission for a report on the feasibility of the project. The activities of the Districts Securities Commission in connection with the issuance, sale and refunding of irrigation district bonds are covered by sections 30 to 32e of the Irrigation District Act and by the provisions of the California Districts Securities Commission Act itself.

Section 3480b of the Political Code, as amended in 1933, provides for approval by the Districts Securities Commission of the issuance of reclamation district refunding bonds. The Water Storage Act, California Water Conservation District Act, the California Water District Act and the Water Conservation District Act of 1929 all provide for the submission of their bond issues to the Districts Securities Commission for approval of certification as legal investments for savings banks, trust funds, public funds, etc.

CALIFORNIA DISTRICTS SECURITIES COMMISSION ACT

An act creating the California Districts Securities Commission, providing for its appointment, and defining its duties and powers, relating to bonds of irrigation districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies and trust companies, trust funds, State school funds and any money or funds which may now or hereafter be invested in bonds of cities, cities and counties, counties, school districts or municipalities, and providing under what circumstances the use of bonds of irrigation districts as security for the performance of any act may be authorized, providing that certain districts may be declared insolvent, and providing for the administration of insolvent districts, making an appropriation, to carry out the purposes of the act, and repealing an act entitled "An act relating to bonds of irrigation districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies and trust companies, trust funds, State school funds and any money or *funds which may now or hereafter be invested in bonds of cities, cities and counties, counties, school districts or municipalities, and providing under what circumstances the use of bonds of irrigation districts as security for the performance of any act may be authorized," approved June 13, 1913, and as amended.*

(Approved June 19, 1931, Stats. 1931, p. 2263; amended Stats. 1933, p. 355; Stats. 1937, pp. 491, 1426.)

California Districts Securities Commission Created—Personnel—Compensation

SECTION 1. There is hereby created a commission to be known as and designated the California Districts Securities Commission, which commission shall consist of five members as follows: the Attorney General, the State Engineer, the Superintendent of banks, and two other members to be appointed by the Governor, each of whom at the time of his appointment shall be one who has had at least five years actual experience in the affairs of an irrigation district in this State as an officer or employee. The terms of office of the two members appointed by the Governor shall be four years from the date of their appointment, and until their successors are appointed. Each member of the board other than the Attorney-General, the State Engineer and the Superintendent of Banks shall be entitled to receive as compensation as such member, ten dollars for each day while on official business of the commission and all members shall be entitled to receive his actual necessary expenses while on such official business.

"District" Means "Irrigation District"

SEC. 2. The words "district" or "districts" wherever used herein for all purposes hereof, shall be deemed to mean irrigation districts organized under the laws of this State.

Resolution Declaring Bonds Available for Certification

SEC. 3. Whenever the governing board of any district organized and existing under and pursuant to the laws of the State of California shall by resolution declare that it deems it desirable that any contemplated or outstanding bonds of said district, including any of its bonds authorized but not sold, shall be made available for the purposes provided for in section 9 of this act, the said board shall thereupon file a certified copy of such resolution with the commission herein provided for.

Types of Districts That May Apply for Certification of Bonds

SEC. 3a. Whenever the governing board of any water storage district, water conservation district, county water district, reclamation district, drainage district or any other district the primary function of which is the irrigation, reclamation or drainage of lands within the boundaries of the district, organized and existing under any law or laws of this State, shall by resolution declare that it deems it desirable that the bonds of any such district be made available for the purposes provided for in section 9 of this act, the governing board of any such district shall thereupon file a certified copy of such resolution with the commission created by section 1 of this act, and then, and in that event, all the provisions of this act, except the provisions of section 11 thereof, shall apply. In the event that the bonds of any such district or districts be hereafter certified, then such district or districts shall be subject to all the provisions of this act except the provisions of section 11 thereof so long as any of the bonds so certified remains outstanding. (Added Stats. 1937, p. 1426.)

Report of Commission—Limitation Upon Approval of Bonds for Certification

SEC. 4. Such commission, upon receipt of a certified copy of such resolution, shall, without delay, make or cause to be made an investigation of the affairs of the district and report thereon in writing. If no bonds of the district shall have theretofore been certified as provided in this act or under the provisions of "An act relating to bonds of irrigation districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies and trust companies, trust funds, state school funds and any money or funds which may now or hereafter be invested in bonds of cities, cities and counties, counties, school districts or municipalities, and providing under what circumstances the use of bonds of irrigation districts as security for the performance of any act may be authorized." Approved June 13, 1913, or acts amendatory thereof or supplementary thereto, such report shall be made upon each and every detail that may in the opinion of the commission have any bearing upon the success or failure of the project about to be undertaken by the district, and every fact which will aid the commission in determining the feasibility and economic soundness of such project. If bonds of the district shall have theretofore been so certified then such report shall be upon the following points:

(a) The supply of water available for the project and the right of the district to so much water as may be needed.

(b) The nature of the soil as to its fertility and susceptibility to irrigation, the probable amount of water needed for its irrigation and the probable need of drainage.

(c) The feasibility of the district's irrigation system and of the specific project for which the bonds under consideration are desired or have been used, whether such system and project be constructed, projected or partially completed.

In either case the commission shall estimate the reasonable value of the water, water rights, canals, reservoirs, reservoir sites and irrigation and power works and other property owned by the district or to be acquired or constructed with the proceeds of the bonds proposed to be issued by said district and the reasonable value of lands included within the boundaries of the district.

No bond issue of any district shall be approved for certification as provided in this act which together with any other outstanding bonds of such district including bonds authorized but not sold exceeds sixty per centum of the aggregate value of the water, water rights, canals, reservoirs, reservoir sites, irrigation and power works and other property owned by the district or to be acquired or constructed with the proceeds of the bonds proposed to be issued by said district, and the reasonable value of the lands within the boundary of the district.

Report Filed With Controller—Duties of Controller

SEC. 5. The written report of the investigation herein provided for shall be filed in the office of the State Controller, and a copy of said report shall be forwarded by the commission to the secretary of the district for which the investigation shall have been made, and if said commission shall have found, as set out in said report, that the project is economically sound and feasible, the bonds of such district, as described and enumerated in said report filed with the State Controller, shall be certified by the State Controller, as hereinafter provided for. If the commission shall be notified by the board of any district whose project has been found in such report to be feasible, that the district has issued bonds, and the commission shall find that said bonds are for any project or projects approved in such report, the commission shall prepare and file with the State Controller a supplementary report giving the numbers, date or dates of issue and denominations of said bonds, which shall then be entitled to certification by the State Controller as hereinafter provided for. Subsequent issues of bonds may be made available for the purposes specified in this act upon like proceedings by said district, but, after any of the bonds of a district have been enumerated and described as entitled to certification by the State Controller as herein provided for, it shall be unlawful for that district to issue bonds that will not be entitled to such certification. It is hereby made the duty of the State Controller to provide for filing and preserving the reports mentioned in this section and, also, to make, keep and preserve a record of the bonds certified by him in accordance with the provisions of section 8 of this act, including the date of certification, the legal title of the district, the number of each bond, its par value, the date of its issue and that of its maturity.

Supervision of Expenditures from Certified Bond Proceeds by Commission—Inspection by State Engineer

SEC. 6. Whenever the bonds of any district have been certified as provided in this act, no expenditures shall be made from the proceeds of such bonds, nor shall any liability to be met from such proceeds be incurred, until there shall have been filed with and approved by said commission such a schedule of proposed expenditures of such proceeds as may be necessary to set forth to the satisfaction of said commission the plan proposed for carrying out the purposes for which said bonds were authorized, or such of said purposes as the district may, at the time of filing such schedule, desire to proceed with; and no expenditures from the proceeds of said bonds shall be made for any purpose not specified in such approved schedule or for any approved purpose in excess of the amount allowed therefor in such schedule without the consent of said commission; nor shall any expense of any kind be incurred in excess of money actually provided by levy of assessment or otherwise except as otherwise provided by law. During the progress of any work to be paid for from the proceeds of any bond issue certified as in this act provided, the State Engineer on behalf of the commission herein authorized, shall make from time to time such inspection of the work as may be necessary to enable the said engineer to know that the plans approved by the commission are being carried out without material modification unless such modification has been approved by said State Engineer.

Plan on which bond issue is based may be changed with consent of the commission.

El Dorado Irr. Dist. vs. *Brown,* 216 Cal. 269.

Works Constructed Over Period of Years—Approval of Periodical Bond Sales

SEC. 7. Whenever the survey, examination, drawings and plans of a district, and the estimate of cost based thereon, shall provide that the works necessary for a completed project shall be constructed progressively over a period of years in accordance with a plan or schedule adopted by resolution of the board of the district, the bonds so voted and certified, or any portion of them, shall only be sold after prior written approval of the commission.

Certification by Controller—Form of Certificate

SEC. 8. Whenever any bond of a district organized and existing as aforesaid, including any bond authorized in any such district but not sold, which shall be eligible to certification by the State Controller under section 5 of this act, shall be presented to the State Controller, he shall cause to be attached thereto a certificate in substantially the following form:

Sacramento, Cal.------ (insert date) I,------, Controller of the State of California, do hereby certify that the within bond, No. ------, of issue No. ------ of the ------district, issued ------ (insert date), is, in accordance with an act of the Legislature of California approved ------, a legal investment for all trust funds and for the funds of all insurance companies, banks, both commercial and savings, trust companies, the State school funds and any funds which may be invested in county, municipal or school district bonds, and it may be deposited as security for the performance of any act whenever the bonds of any county, city, city and county, or school district may be so deposited, it being entitled to such privileges by virtue of an examination by the California Districts Securities Commission of the State of California in pursuance of said act. The within bond may also, according to the Constitution of the State of California, be used as security for the deposit of public money in banks in said State.

Controller of State of California

In case of a change in the Constitution or any of the laws of this State relating to the bonds of a district, or any difference therein the State Controller shall, if necessary, modify the above certificate so that it shall conform to the facts.

A facsimile of the Controller's signature, printed or otherwise, impressed upon said certificate shall be a sufficient signing thereof; provided, that the imprint of the Controller's seal thereon shall appear upon both the certificate and the bond over and through the printed signature.

Certified Bonds Are Legal Investments

SEC. 9. All bonds certified in accordance with the terms of this act shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings, and trust companies and for the State school funds and whenever any money or funds may, by law now or hereafter enacted, be invested in bonds of cities, cities and counties, counties, school district, or municipalities in the State of California, such money or funds may be invested in the said bonds of such districts, and whenever bonds of cities, cities and counties, counties, school districts or municipalities may by any law now or hereafter enacted be used as security for the performance of any act, bonds of districts under the limitations in this act provided may be so used. This act is intended to be and shall be considered the latest enactment upon the matters herein contained, and any and all acts in conflict with the provisions hereof are hereby repealed.

Powers of Commission—Annual Reports

SEC. 10. The commission shall have power to examine the books and records of any district. It shall also prescribe a form of annual reports of districts, and a copy of each report shall be filed with the secretary of the district and a copy in the office of the commission.

Payment of Defaulted Obligations, Special Provisions For

SEC. 11. Whenever any district has levied the annual assessment required by the laws of this State and when the money derived from said assessment, together with any other revenue allocated to payment of bond interest and principal, is insufficient to meet the bond interest or principal when due and said district defaults on its bond principal or interest, or both, to the extent of not less than twenty per cent (20%) of the amount due, said defaulting district may become subject to this section and to the control and direction of the commission as herein provided upon the application of such district and the approval thereof by the commission. Thereafter it shall continue subject to this section and to such control and direction during the effective period of this section unless and until the amount raised by its annual assessment as hereinafter provided, together with other revenue derived from any source and allocated to bond service or other outstanding obligations, shall be sufficient to meet and pay off all matured and uncanceled or unrefunded obligations of such district, bonded or otherwise, in which event it shall cease to be subject to this section and such control and direction shall terminate so long as said district does not again default as aforesaid. Upon receipt of written notice from any such district, the California Districts Securities Commission shall make such an investigation of the affairs of the district at the expense of the district as it may deem proper and for which funds are available in order to inform itself as to the financial affairs of the district and its lands, and to enable it to carry out the provisions of this section intelligently.

The board of directors of any such defaulting district, in levying the annual assessment of the district, may, notwithstanding section 39 of the California Irrigation District Act or any other provision of law governing such district, levy only for such total amount as in their judgment by a finding of fact, approved by the commission it will be reasonably possible for the lands in said district, taken as a whole, to pay without exceeding a delinquency of fifteen per cent. In determining the amount it is possible for the lands to pay, at the time of each annual assessment, the board of directors shall consider the productivity of lands in the district, crops growing and to be grown during the year, market conditions as well as they can be forecast, the cost of producing and marketing crops, and obligations of the land respecting taxes and public liens. Out of the money derived from such annual assessment the board of directors of the district may set aside such sum as, in the judgment of said board, and approved by the commission, may be necessary, in addition to other revenue allocable to that purpose, for the operation and maintenance of said district and its works for the ensuing year. The balance of said money derived from such annual assessment shall be prorated to bond interest, bond principal and to other outstanding obligations of the district in the proportion that the total amount due on each of said items shall bear to the said balance.

Notwithstanding anything in this section contained, in any case in which an irrigation district has heretofore defaulted or shall hereafter default in the payment of its indebtedness as in this act provided, no district shall be deemed to be or have been under the control or direction of the commission as in this section defined or under the supervision or control of the commission as to the fiscal affairs of such district until and unless the commission has or shall have made its order approving a reduced assessment.

This section shall remain in effect only until the first day of November, 1939, unless sooner repealed. The Legislature expressly declares that this section is intended to be applicable to all bonds, obligations and assessments of districts which have defaulted to the extent hereinbefore set forth, and the Legislature expressly declares that, except as otherwise expressly provided by law, it applies, and shall be construed to apply, to all bonds now or hereafter issued and outstanding. Nothing in this section contained, however, shall be deemed to extinguish or cancel any obligation due from any district, and whenever the annual assessment, levied as hereinbefore provided, leaves matured bond principal or interest or other matured obligations unpaid, said unpaid balance shall continue as a district obligation until paid or refunded in accordance with law.

Sec. 2. The agricultural emergency referred to in section 2 of Chapter 60 of the Statutes of 1933 continues to exist, and it is necessary for the same reasons that section 11 of the act cited in the title hereof was enacted to continue the section in effect until November, 1939.

Sec. 3. Nothing in this act contained shall be applicable to refunding bonds of any irrigation district issued under or pursuant to a plan of readjustment submitted to and confirmed by any United States District Court in any proceedings under the Federal Bankruptcy Act, as amended, or any plan of readjustment submitted to and confirmed by any court of competent jurisdiction under any law of the State of California, and such refunding bonds shall be payable, as to both principal and interest, from assessments levied and collected in accordance with the terms of said bonds and the plan of readjustment pursuant to which the same are or are to be issued, anything in this act to the contrary notwithstanding. (Amended Stats. 1937, p. 491.)

Commission May Negotiate With Bondholders for Compromise

Sec. 12. Upon the written request of the board of directors of any district, either before or after default in the payment of interest on its bonds, or any of the principal thereof, the commission may act for the district in negotiating with the holders of bonds or other evidences of indebtedness of the district, for the purpose of compromising or adjusting such indebtedness.

Permit Required for Issuance of Certificates of Deposit

Sec. 12a. No person, association or corporation shall issue or cause to be issued any certificate of deposit for any security which has been certified under the provisions of this act as available for the purposes provided for in section 9 of this act until application shall first have been made for and a permit secured from the commission created by section 1 of this act authorizing such issuance. Such application shall be in the form prescribed by the commission. Upon the filing of such application it shall be the duty of the commission to examine the application and other papers and documents filed therewith and may, if it deems it desirable, make or cause to be made a detailed examination, audit and investigation of the applicant and its affairs. If it finds that the proposed plan of readjustment or compromise, the agreement or arrangement under which said securities are to be deposited and said certificates of deposit issued are not unfair, unjust, inequitable or contrary to public policy and that the certificates of deposit proposed to be issued and the methods to be used in issuing them and in soliciting the deposit of securities in exchange therefor are such as in its opinion will not work a fraud or injustice on the depositing security holders, the commission shall issue to the applicant a permit authorizing it to issue or cause to be issued the certificates of deposit, as therein provided in this State, in such amounts and upon such terms and conditions as the commission may in such permit provide; otherwise it shall deny the application and refuse to issue a permit and so notify the applicant in writing of its decision. The commission may from time to time amend, alter or revoke any such permit issued by it, or temporarily suspend the rights of the applicant under such permit. No such certificate of deposit issued without the consent of the commission as in this section provided shall be valid or have force or effect; provided, however, that the provisions of this section shall not apply to the district that has issued such securities. (Added Stats. 1937, p. 1426.)

Employees of Commission

Sec. 13. The commission shall establish an office and shall select one of their number as chairman, and shall appoint an executive secretary, and shall from time to time appoint such other employees as they may deem necessary to carry out the purposes of this act. The compensation of all employees shall be fixed by the commission with the approval of the Department of Finance.

Rules, Regulations and Meetings of Commission

Sec. 14. The commission shall adopt such rules and regulations for the conduct of its affairs as it may deem proper, but which shall not be in conflict with any of the provisions of this act, or any other act of the Legislature, and in such rules shall fix the time for regular meetings of the commission, which regular meetings shall be held at the office of the commission.

Commission Succeeds to Jurisdiction of Bond Certification Commission

Sec. 15. The California District Securities Commission herein provided for shall succeed to and is hereby vested with all the duties, powers, purposes, responsibilities and jurisdiction of the California Bond Certification Commission, being the commission authorized by law to approve bonds of irrigation districts for certification, and also designated as the State Irrigation District Bond Commission, and whenever by the provisions of any statute or law now in force or that may hereafter be enacted, a duty or jurisdiction is imposed or authority conferred upon said California Bond Certification Commission, such duty, jurisdiction and authority are hereby imposed upon and transferred to the said California Districts Securities Commission with the same force and effect as though the title of said California Districts Securities Commission had been specifically set forth and named therein in lieu of the name of said California Bond Certification Commission.

Investigation and Report—Contribution of Funds

SEC. 16. Any district requesting the commission to make any investigation or report authorized by this act shall contribute such funds of the district to the commission for such purposes as may be agreed upon between said district and the commission; provided, that the benefit of any services that may have been performed and any data that may have been obtained by any member of said commission or any other public official in pursuance of the requirements of any law other than this act, shall be available for the use of the commission herein provided for without charge to the district whose affairs are under investigation. The commission is authorized to accept contributions from any source to pay the cost of making investigations or reports under the provisions of this act.

Short Title

SEC. 17. This act may be referred to in any action, proceeding or legislative enactment as "The California Districts Securities Commission Act."

Bond Commission Act Repealed (Chapter 366, Statutes of 1913)

SEC. 18. The act entitled "An act relating to bonds of irrigation districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies and trust companies, trust funds, State school funds and any money or funds which may now or hereafter be invested in bonds of cities, cities and counties, counties, school districts or municipalities, and providing under what circumstances the use of bonds of irrigation districts as security for the performance of any act may be authorized," approved June 13, 1913, as amended, is hereby repealed. This repeal does not affect any right existing or accrued nor the validity of any bonds heretofore issued in accordance with the provisions of the act hereby repealed.

Saving Clause

SEC. 19. If any section, subsection, sentence, clause, or phrase of this act is for any reason held to be unconstitutional or unenforceable, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase hereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional or unenforceable.

Appropriation

SEC. 20. Out of any moneys in the State treasury not otherwise appropriated, the sum of forty thousand dollars is hereby appropriated to be expended in accordance with law to carry out the purposes of this act.

LAWS RELATING TO DISTRICT SECURITIES

BONDS EXEMPT FROM TAXATION

California Constitution, Article XIII, Sec. 1¾

All bonds hereafter issued by the State of California, or by any county, city and county, municipal corporation, or district (including school, reclamation, and irrigation districts) within said State, shall be free and exempt from taxation. (New section adopted November 4, 1902.)

See 26 R. C. L. 334.

PAYMENT OF BONDS

California Constitution, Article XI, Sec. 13½

Any county, city and county, city, town, municipality, irrigation district, or other public corporation, issuing bonds under the laws of the State, is hereby authorized and empowered to make said bonds and the interest thereon payable at any place or places within or outside of the United States, and in any money, domestic or foreign, designated in said bonds. (Amendment adopted November 3, 1914.)

Turlock Irr. Dist. vs. *White*, 186 Cal. 183, 198 Pac. 1060.

DEFAULT OF IRRIGATION DISTRICT IN PAYMENT OF INDEBTEDNESS

An act providing an in rem court proceeding for the purpose of determining the inability of an irrigation district to meet its bonded or other indebtedness, and to approve a plan for the compromise payment or satisfaction, funding or refunding thereof and of requiring the holders of outstanding bonds, warrants or other evidences of indebtedness to accept such compromise payment or satisfaction, funding or refunding bonds in lieu thereof; making the decree therein binding upon all persons whether appearing in said proceeding or not; providing a method of procedure and declaring this act to be an urgency measure.

(Approved May 18, 1933, Stats. 1933, p. 1165.)

Petition for Compromise or Satisfaction of Indebtedness

SECTION 1. If any irrigation district of the State of California shall be in default in payment of any money due by reason of its bonds, warrants or other evidences of indebtedness, and if a plan of compromise payment or satisfaction or funding or refunding any bonds, warrants or other evidences of indebtedness of such district shall have been approved or agreed upon by the California Districts Securities Commission and the holders of two-thirds (⅔) in amount of such bonds, warrants or other evidences of indebtedness, thus to be so paid, satisfied, funded or refunded, and if the board of directors of such district shall have likewise approved or agreed to said plan and if such payment or satisfaction or the issuance of funding or refunding bonds under such plan has been authorized by the voters of such district in the manner provided by law, then any one or more of the holders of the bonds, warrants or other evidences of indebtedness thus to be paid, satisfied or refunded may file a petition in the superior court in the county in which the principal office of said district is located, setting forth: (1) the fact that said default has taken place; (2) that the district is unable to pay its indebtedness or some part thereof in the manner required by law; (3) that unless a plan of compromise payment or satisfaction, reorganization, funding or refunding of its outstanding indebtedness or a portion thereof is accomplished, a substantial loss will be sustained by the holders of the bonds, warrants or other evidences of such indebtedness; (4) that it is necessary in order to prevent a substantial loss to such holders that a plan of compromise payment or satisfaction, reorganization, funding or refunding of the indebtedness of the district or a portion thereof be effected; and (5) that a plan of compromise payment or satisfaction or funding or refunding of said indebtedness has been approved or agreed to by the California Districts Securities Commission and the holders of two-thirds ($\frac{2}{3}$) in amount of the bonds, warrants or other evidences of said indebtedness thus to be paid, satisfied, or funded or refunded and has been agreed to by said district, and that such payment, satisfaction or refunding bonds have been authorized by the voters of said district pursuant to said plan in the manner required by law, and that said plan is fair and equitable and no other plan, procedure or action on behalf of such bondholders would be as advantageous to them or would enable them to receive as much money or other things of value as would be received by them under said plan.

Notice and Hearing on Petition

Sec. 2. Upon the filing of said petition the court shall first set a date for the hearing thereof, which date shall not be less than ninety (90) days from the filing of said petition and the court shall direct the manner of giving notice of the filing of said petition and of the date set for hearing of the same. In making such order the court shall direct that written notice thereof shall be mailed to all known bondholders and creditors of said district to such addresses as they may file with the secretary of the district, otherwise to their last known place of residence, and shall provide for the posting of said notice in three public places in the county and for the publication of such notice not less than once a week for four weeks in a newspaper of general circulation printed in the county, if there be one, and in similar newspapers in the cities of Los Angeles, San Francisco, Oakland and Sacramento. Such order shall provide for such further notice as the court may deem proper under the circumstances of the particular proceeding.

Decree for Part Payment of Indebtedness

Sec. 3. Any bondholder or creditor of said district may appear and file an answer therein and the court may permit intervention by any party whose interest may be affected by such proceeding. Upon the date set for the hearing thereof or upon any date to which such hearing may be continued the court shall hear, try and determine the issues of fact involved therein, and shall take evidence for or against the ability of said district to meet its obligations or to continue to function as such, and the necessity and the fairness of said plan of compromise payment or satisfaction or funding or refunding of the bonded or other indebtedness of the district. If the court shall find that the essential allegations of said petition are true the court shall thereupon make and file its findings of fact and conclusions of law. If the essential allegations of the petition are not sustained, the proceeding shall be dismissed. If they are sustained the court shall enter its decree requiring all holders of the bonds, warrants or other evidences of indebtedness being so paid, satisfied or refunded to deposit their bonds pursuant to said plan, and the district shall thereupon and pursuant to said plan pay the money agreed in compromise payment or satisfaction thereof or issue its funding or refunding bonds in exchange therefor. The decree shall further provide that if any holder of bonds, warrants or other evidences of indebtedness shall not deposit his bond, warrant or other evidence of indebtedness as aforesaid, the district treasurer shall deposit the money agreed in compromise payment or satisfaction thereof or the refunding bond or bonds to be issued in exchange for the outstanding bond, warrant or other evidence of indebtedness of such nondepositing holder with the California Districts Securities Commission and upon such deposit and the issuance of the receipt of said California Districts Securities Commission therefor the obligation of such outstanding bond, warrant or other evidence of indebtedness shall terminate and the rights of the holder thereof shall be limited to his right to obtain such deposited money or refunding bond or bonds upon surrender by holder of his bond, bonds or warrants, as the case may be, and upon executing to the California Districts Securities Commission a receipt therefor. The California Districts Securities Commission is hereby authorized to, and it shall, act as the depositary of such evidences of indebtedness and shall perform all duties incident thereto as indicated by this act.

In Rem Proceeding

Sec. 4. The proceeding hereinabove provided for shall be conclusively deemed to be in rem and the decree therein binding upon all persons whether appearing therein or not.

Appeal to Supreme Court

Sec. 5. Any holder of any bonds, warrants or other evidences of indebtedness affected by any such court procedure provided for by this act or any other interested party shall have the right to appeal to the Supreme Court at any time within the time allowed by law. The Supreme Court, in inquiring into the regularity, legality or correctness of any of said proceedings must disregard any error, irregularity or omission which does not affect the substantial rights of the parties and may approve the proceedings in part and disapprove the remainder thereof. The costs of the special proceedings may be allowed and apportioned between the parties in the discretion of the court. Any judge of the superior court of the county in which any such proceeding is brought shall be disqualified to act as judge of said court in passing upon any such proceeding.

Urgency Clause

SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution and shall therefore go into immediate effect.

The facts constituting the necessity are as follows: Many irrigation districts organized under the laws of the State of California, are now in a bankrupt condition and unable to meet their obligations in full and are in the process of devising ways and means for the compromise payment or satisfaction thereof or funding or refunding their bonded indebtedness, and it is impossible to locate all of the owners of their securities to secure their assent thereto; that if this legislation is not made immediately effective and on the contrary shall become effective ninety (90) days after the final adjournment of this session of the Legislature, it will be too late to make such plans applicable to the tax rate levied by such districts for the calendar year 1934; that the inability to levy a rate in accordance with such plan for the calendar and fiscal year 1934 will in most instances result in serious and substantial prejudice of, and financial loss to, the bondholders, creditors and districts.

IRRIGATION DISTRICT REFINANCING ACT

An act providing ways and means for liquidating, refinancing and readjusting certain indebtedness of irrigation districts in default; for judicial proceedings to carry out such purpose; for the confirmation of plans for liquidation, refinancing and readjustment; authorizing the exercise of the police power and the power of eminent domain for the acquisition and cancellation of obligations of districts held by persons not accepting such plan; declaring an emergency and the urgency hereof and providing that this act shall take effect immediately.

(Approved March 30, 1937; Stats. 1937, p. 92.)

Legislative Declaration

SECTION 1. Legislative Statement and Declaration of Fact, Emergency and Policy. The Legislature of the State of California does hereby find, determine and declare to exist a State emergency affecting the peace, health, safety and comfort of the people, caused by and resulting from the inability of irrigation districts formed, organized and existing under the laws of this State to consummate and complete plans for liquidating, refinancing or readjusting indebtedness of such districts, and that such emergency arises out of the following facts, to wit:

That many of such districts were organized during a rapid period of expansion and inflated values and that they issued bonds in exceess of their capacity to pay. That during the period of world-wide depression many of these districts became increasingly unable to meet the obligations of their bonded indebtedness, including the payment of interest thereon, and that mounting defaults in such districts with consequent pyramiding of assessments to the point of confiscation, ever increasing delinquencies and inability to sell lands foreclosed by the districts caused a condition of chaos to exist which resulted in the enactment of Chapter 60 of the Statutes of 1933 and Chapter 36 of Statutes of 1935, commonly known as "Section 11 of the District Securities Commission Act." That this act authorized, subject to the provisions thereof, the levy of assessments during the period of the emergency thereby declared to exist, based upon the ability of the land to pay and contemplated that, with such relief, ordinary economic processes would permit such districts to rehabilitate themselves through enabling them and the bondholders in agreement to work out refinancing plans before all values within such districts should be destroyed. That after the passage of said acts districts levied assessments based on the ability of lands to pay, and commenced proceedings to work out refinancing plans with their respective bondholders. That in many of such districts refinancing plans have heretofore been accepted by an overwhelming majority of the bondholders and proceedings have been brought under section 80 of the Bankruptcy Act of the United States to compel acceptance of such refinancing plans by small minority groups of dissenting bondholders. That recently the Supreme Court of the United States has held that such section of the Bankruptcy Act is unconstitutional in that it infringes upon the sovereignty of the States. That as a result of this decision there is now no legal procedure by which refinancing of the present bonded indebtedness of such districts may practicably be consummated. That the excessive debt burden of such districts has so increased and pyramided during the last three years, due to the inability to meet the annual debt obligations, that any present attempt to levy assessments designed to meet such obligations of such districts in full would result in overwhelming delinquencies, would prove largely uncollectible, would raise no adequate funds for bond or other debt service, and would be of no benefit to bondholders or creditors. That, unless these existing chaotic conditions are remedied, in each succeeding year an ever increasing body of lands will default in payment of assessments and will remain unredeemed therefrom. That annual assessments in each succeeding year will fall upon a progressively lessening body of land which in turn will be forced to default in greater and greater quantities. That such inevitable and wholesale conditions of default will destroy the ability of such districts to pay their bonded debts in whole or in part and to carry out the necessary public functions with which they are entrusted as governmental agencies of the State. That on the contrary if refinancing plans now under way and accepted by overwhelming majorities of the bondholders of such districts can be effected, bondholders and creditors will be benefited, land in the districts will remain in private ownership, values will be restored and such districts will be enabled to discharge their public obligations. That the adequate credit, support and maintenance of such districts as governmental agencies of the State is a matter of vital State interest and concern; that the welfare of the State, the solvency of its banking institutions and the interests of the property owners in, and the creditors of, such districts, all require the speedy settlement and adjustment of the debt defaults of all such districts so that the financial standing, credit and tax collecting ability thereof may be restored. Therefore, to meet this condition of emergency, the police power and the power of eminent domain are hereby invoked and such irrigation districts herein referred to are hereby authorized to institute and maintain the proceedings and actions as hereinafter set forth which are hereby declared to be for public purposes, for the preservation of government, the protection of private property and the protection of the bondholders, creditors and property owners alike of such districts to the end that the State shall aid in and assist in the solution and settlement of grave, economic and financial difficulties by providing ways and means for liquidating, refinancing and readjusting indebtedness of such irrigation districts as hereinafter set forth. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution and shall therefore go into effect immediately. That a statement of the facts constituting such necessity is as hereinbefore set forth in this section.

Application of Act

SEC. 2. Application. The outstanding bond or warrant indebtedness or both or any class or classes thereof of any irrigation district organized and existing under the laws of this State and in default as to payments of principal or interest or both of any such indebtedness for a period of not less than three (3) years, or unable to pay its debts as they mature, may be liquidated, refinanced or readjusted as hereinafter provided.

Acceptance of Plan

SEC. 3. Acceptance of Plan by Bondholders and Warrant Holders Affected and by District. Proceedings under this act shall be instituted, except as hereinafter provided, by the adoption by the board of directors of any such district of a plan of liquidation, refinancing or readjustment of such indebtedness, or any class thereof, which plan shall theretofore have been accepted in writing or by contract by the holders of not less than two-thirds in principal amount of each class of the indebtedness affected thereby other than bonds or warrants owned or held by such district. For the purpose of accepting such plan and for all other purposes of this act, any holder of such indebtedness may act in person or by a duly authorized agent or committee. Such plan may provide for cash payments to creditors affected thereby or include provisions modifying or altering the rights of such creditors either through the issuance of new securities of any character, or otherwise, and may contain such other provisions or agreements not inconsistent with this act as the parties may desire. No creditor shall be deemed to be affected by the plan (a) whose bonds or warrants are not affected by the plan or (b) if the plan makes provision for the payment of his bonds or warrants in cash in full.

Approval of Plan

SEC. 4. Approval by District, California District Securities Commission and Petition. Such plan shall be thereafter presented by the board of directors of any such district to the California District Securities Commission, and, if approved by such commission as being fair and equitable to the creditors affected thereby and for the best interests of such district and the landowners thereof, the board of directors may file in the superior court in and for the county in which such district, or the major part thereof, is located, a verified petition stating that such district is unable to meet such obligations as they mature; that it desires to effect the aforesaid plan, which said plan is filed and submitted with the petition or described therein and which said plan has been accepted by creditors as above mentioned; that such district desires to avail itself of the relief and remedies provided for by this act; and containing such other allegations as may be deemed material. Any such petition shall be accompanied by a certified copy of the resolution of the board of directors of said district adopting said plan, together with a list of all known holders of bonds and warrants of said district to be liquidated, refinanced or readjusted as aforesaid, with their addresses so far as known to the district and a description of their respective claims so far as is known which said list shall further show separately those holders of bonds and warrants of said district who have, and who have not accepted the plan.

Automatic Stay. Plan Temporarily in Effect

SEC. 5. Automatic Stay. Plan Temporarily in Effect. The filing of such petition shall operate automatically to enjoin and stay, pending final determination of the proceedings as herein set forth, the commencement or continuance of suits or proceedings against the district or any officer or board of directors thereof which would interfere with or prevent the carrying out of the plan, and shall also operate automatically to enjoin and stay the enforcement of any lien or the levy of assessments except in so far as is consistent with and in furtherance of such plan. The court in which said petition is filed shall have exclusive jurisdiction with respect to all suits, actions and proceedings against the district filing such petition or any board of directors or officer thereof on account of the indebtedness of such district proposed to be liquidated, refinanced or readjusted by such plan or to enforce any lien or the levy of any assessments for the payment of such indebtedness and all matters incidental and collateral thereto and it shall be deemed that said plan is temporarily in full force and effect. It is hereby found and declared that proceedings for or the issuance or enforcement of a writ of mandate or other action or proceeding to enforce any lien or to enforce the levy of assessments for the payment of such indebtedness other than as provided in such plan would, during pendency of said proceeding, result in disorder and confusion and destruction of joint, relative and correlative rights of creditors affected by said plan and injury of third persons.

Notice

SEC. 6. Notice. Upon the filing of such petition the court shall set a time and place for the hearing thereof not less than ninety (90) days thereafter and the district shall give notice of said hearing as follows: Not less than thirty days' written notice of the time and place of hearing shall be personally served upon all known holders of bonds and warrants affected by the plan who are residents of the State of California and who have not theretofore accepted such plan in writing and who can be located by due diligence for such service. If such nonaccepting holders are nonresidents but are represented in mandamus suits or other litigation relating to said bonds or warrants pending in said county or in any court of California, or in the Federal courts in California, such notice may be served upon any attorney of record representing such nonresident holders and such service shall be deemed as effective as if made on such holders themselves. As to all nonaccepting holders resident or nonresident in the State of California and not personally served, the district shall publish such notice of hearing in a newspaper of general circulation published in the county in which such petition is filed at least once a week for eight (8) successive weeks, the last publication to be not less than thirty (30) days prior to the date set for the hearing. Such notice shall also be mailed at least thirty (30) days prior to the date set for the hearing to each nonaccepting holder, postage prepaid, to his last address as, and if the same appears on the records of the district. The notice shall state that the district has filed a petition for approval of a plan to liquidate, refinance or readjust its bonded indebtedness or some class or classes thereof and/or its outstanding warrant indebtedness; it shall give the name of the court and place where such action or proceeding is pending; shall state the plan generally; that it is submitted under this statute; and that it has been accepted by the holders of at least two-thirds in principal amount of each class of the indebtedness to be liquidated, refinanced or readjusted, shall refer to the petition on file and to this law for further particulars and shall state the time and place when said petition shall come on for hearing.

Plans Heretofore Accepted by Creditors and the District

Sec. 7. Plans Heretofore Accepted by Creditors and the District. In any case meeting the requirements of sections 2 and 3 hereof and where prior to the effective date of this act the plan as therein provided has been accepted in writing by the holders of not less than two-thirds in principal amount of each class of the bond or warrant indebtedness affected thereby and by such district, and been approved by the California District Securities Commission, proceedings under this act may be directly instituted, for all purposes hereof and without further proceedings, by the filing by such district of a petition in the form provided in section 4 hereof but also alleging that the plan submitted therewith was accepted as in this section provided.

Hearing on Plan

Sec. 8. Hearing on Plan. Interlocutory Judgment Confirming Plan. Dismissal. At the time and place set by the court the hearing upon said plan shall be held by said court. Said hearing, may in the discretion of the court, be continued from time to time. At any time prior to such hearing, any creditor affected by the plan may file an answer to the petition accepting the plan or controverting any of the material allegations of the petition and setting up any objections to the plan. Upon the hearing the rules and laws of practice, procedure and evidence in civil actions generally shall prevail. The court shall hear the petition and such answers or objections as may be filed and such competent and material evidence as may be offered. At the conclusion of the hearing the court shall make written findings of fact. and its conclusions of law thereon and shall enter an interlocutory judgment confirming the plan if satisfied that (1) it is fair, equitable and for the best interests of the creditors affected thereby; (2) complies with the provisions of this act; (3) has been accepted or approved in writing or by contract by the holders of not less than two-thirds in principal amount of each class of the indebtedness affected thereby as provided in section 3 hereof; (4) the offer of the plan and its acceptance are in good faith; and (5) the district is authorized by law to take all actions necessary to be taken by it to carry out the plan. If not so satisfied as above provided, the court shall enter a judgment dismissing the proceeding. In determining whether the plan is fair and equitable as hereinbefore provided, the court shall take into consideration, together with all other relative data, whether rights and remedies of the holders of the indebtedness affected by the plan are inefficacious, uncertain or futile and whether the plan is based substantially on the measure of the ability of the district to pay. Any interlocutory judgment confirming said plan shall be conclusive evidence (a) of the public necessity of the acquisition by such district as hereinafter provided of bonds or warrants owned by holders not accepting such plan (b) that the acquisition of such bonds or warrants is necessary for the purposes of this act and (c) that such acquisition is planned in the manner which will be compatible with the greatest public good and the least private injury.

Changes, Amendments and Modifications

Sec. 9. Changes, Amendments and Modifications of the Plan. Before a plan is confirmed, changes, amendments and modifications may be made in the plan with the consent of creditors who have already accepted it or, with the approval of the court after hearing, upon such notice to creditors affected as the court may direct. All changes, amendments or modifications shall be subject to the right of any creditor who shall previously have accepted the plan to withdraw his acceptance within a period to be fixed by the court and after such notice as the court may direct, if in the opinion of the court, the amendment, change or modification will be materially adverse to the interest of such creditor. If any creditor having such right of withdrawal shall not withdraw within such period, he shall be deemed to have accepted the plan as amended, changed or modified; provided, however, that the plan as amended, changed or modified shall comply with sections 2 and 3 of this act and shall have been accepted in writing by the district. If an interlocutory judgment confirming the plan is entered, the court may prescribe a reasonable time and conditions for the delivery of the money, securities or other consideration to the creditors under the terms of the plan and may, from time to time, allow additional time for such delivery or may provide for the deposit of the money, securities or other consideration within such time or extension thereof with such depositary or disbursing agent as the court may appoint.

Determination of Value, Acquisition of Bonds of Nonaccepting Holders

Sec. 10. Determination of Value and Acquisition and Cancellation of Warrants or Bonds of Nonaccepting Holders. At any time prior to the entry of the interlocutory judgment as hereinbefore provided, any holder of bonds or warrants affected by said plan may file written acceptance of such plan and thereupon shall be entitled to all of the benefits thereof. Upon rendition of the interlocutory judgment, all holders of bonds or warrants affected by the plan who shall not theretofore have accepted the plan, shall be deemed to be and will be hereinafter referred to as "nonaccepting holders" and thereafter they shall have no right to accept said plan or to avail themselves of any rights thereunder. Upon rendition of said interlocutory judgment, the court shall continue the proceeding for final hearing with respect to the value of the bonds or warrants of the nonaccepting holders as hereinafter provided. At the time set for final hearing the court shall hear such competent and material evidence as may be offered and shall proceed to determine and fix the actual value of the bonds or warrants held by nonaccepting holders and each of them respectively. Such value shall be determined by a jury unless waived by the district and the nonaccepting holders, the value of whose bonds or warrants is being fixed and determined. The value shall be fixed and determined as of the date of the filing of the petition and shall be fixed and determined in view of all the rights and remedies available to the creditors affected if their obligations were not liquidated, refinanced or readjusted and if they were relegated to their legal and equitable rights and remedies under their bonds or warrants. The intent of the Legislature herein is that the nonaccepting bond or warrant holder shall receive the full cash value of his bonds or warrants fixed and determined by conditions as they would be if the district indebtedness were not liquidated, refinanced or readjusted according to the plan approved by the court, but such values shall not be enhanced or increased by reason of any value given to bonds or warrants held by nonaccepting holders by reason of the fact that two-thirds or more in principal amount of the creditors affected by the plan have agreed on a plan of liquidation, refinancing or readjustment or that the court has confirmed the same or that said plan has already been carried into effect in whole or in part as to accepting creditors or any of them. Evidence concerning the market value of the bonds and warrants affected by the plan and the price at which they were sold on the market, and otherwise, prior to the adoption by the district of the plan, and for a reasonable time before and after such date shall be admissible.

Judgment of Acquisition, Cancellation and Condemnation

SEC. 11. Judgment of Acquisition, Cancellation and Condemnation. After determining the value of the bonds or warrants owned by the nonaccepting holders as aforesaid, the court shall enter a judgment of acquisition, cancellation and condemnation by said district of all bonds or warrants of nonaccepting holders for the price and at the value fixed and determined as aforesaid. After entry of the judgment as in this section provided, the district may deposit with the depositary or disbursing agent appointed by the court for the respective nonaccepting holders of bonds or warrants, the full appraised value of such bonds or warrants as fixed and determined in said judgment, together with interest at the rate of seven per cent (7%) per annum from the date of such judgment to the date of deposit in lawful money of the United States and thereupon it shall be deemed that said bonds or warrants owned by such nonaccepting holders have been finally acquired and condemned by said district and are canceled and extinguished. Any nonaccepting bond or warrant holder may at any time withdraw the money so deposited with the depositary or disbursing agent in cancellation of his bonds or warrants respectively upon surrender to said depositary or disbursing agent of such bonds or warrants; provided, further, that the district must, on demand of any nonaccepting bond or warrant holder, deposit with such depositary or disbursing agent within not less than three months from date of entry of the judgment provided for in this section, the full amount fixed by said judgment for such nonaccepting holder respectively, together with interest as aforesaid, on condition that said creditor's demand shall be accompanied by tender for cancellation of the bonds or warrants referred to in said demand; and provided further that in any event the district must, within three months after the judgment provided for in this section shall have become final, deposit with the depositary or disbursing agent appointed by the court the sums of money fixed and determined by such judgment for all nonaccepting holders of bonds or warrants respectively, together with interest as aforesaid.

Effect of Judgment Fixing Value

Sec. 12. Binding Effect of Interlocutory Judgment and Judgment Fixing Value of Bonds or Warrants of Nonaccepting Holders. The plan when confirmed by interlocutory judgment as provided in section 8 hereof shall be binding upon the district and all holders of bonds or warrants who have accepted the same as herein provided and the district and such accepting bondholders shall have no other or different rights with respect to their bonds or warrants than are provided in such plan and the interlocutory judgment confirming the same. From and after the entry of the judgment provided for in section 11 hereof, the nonaccepting holders shall have no right other than to receive the cash value fixed for their bonds or warrants respectively, together with interest as hereinbefore provided.

Procedure After Disbursement to Nonaccepting Holders

Sec. 13. Procedure After Disbursement to Nonaccepting Holders. After the district has deposited with the depositary or disbursing agent appointed by the court the value of the bonds or warrants of the nonaccepting holders respectively as hereinbefore provided, and after any nonaccepting bond or warrant holder has received the value of his bonds or warrants as fixed by said judgment aforesaid, together with interest as aforesaid, by delivering such bonds or warrants to such depositary or disbursing agent, said bonds and warrants shall thereupon be delivered by such depositary or disbursing agent to the district for cancellation. Any funds deposited with the depositary or disbursing agent by the district and not paid to nonaccepting bond or warrant holders hereunder, shall remain with such depositary or disbursing agent for five years after said judgment has become a finality and thereupon if not paid out as hereinbefore provided shall be returned to the district as unclaimed and the bonds or warrants represented thereby shall be deemed extinguished and canceled. All fees or other expenses of the depositary or disbursing agent hereunder shall be paid by the district.

District May Borrow Money

Sec. 14. The District May Borrow Money to Acquire Nonaccepting Bonds or Warrants. In order to fully carry out the purposes of this act, the district is hereby authorized to borrow from accepting holders of bonds or warrants, or otherwise, on such terms as may be agreed upon and approved by the court, any or all funds needed for the purpose of deposit for compensation to nonaccepting holders as above provided.

Power of Court

SEC. 15. Further Orders of the Court. At the time of entry of judgment as hereinbefore in section 11 provided, the court shall further permanently restrain and enjoin holders of bonds or warrants affected by said plan or said judgment from instituting or further maintaining suits, actions or proceedings to enforce alleged rights or remedies other than by this act or said plan or said interlocutory judgment confirming the same is specifically granted or provided. The court may also enter judgment or order for declaratory relief in conformity with proper allegations of the petition to that end pursuant to sections 1060, 1061. 1062 and 1062a of the Code of Civil Procedure of the State of California.

Appeals

SEC. 16. Appeals. An appeal may be taken by the district from any judgment or order dismissing the proceedings or by or on behalf of any creditor aggrieved from either the interlocutory judgment provided for in section 8 hereof or from the judgment fixing and determining the value of nonaccepting bonds or warrants as provided in section 11 hereof. Such appeal may be taken in the manner and as provided by law for appeal from final judgment in an equity case.

Termination of Act

SEC. 17. Termination of Act. This act shall remain in effect only until the first day of February, 1939, provided that any district which prior to such date shall have adopted the plan as herein provided and secured the acceptance of the creditors affected thereby as herein provided and which has also complied with the provisions of section 4 hereof, may nevertheless maintain and prosecute said proceeding to a finality. Such proceeding must conform throughout to the requirements and provisions of this act.

Saving Clause

SEC. 18. Saving Clause. If any section, sentence, clause or part of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, sentence, clause and part thereof despite the fact that one or more sections, sentences, clauses or parts thereof be declared unconstitutional.

Effect of Invalidity

SEC. 19. Consent of Accepting Bond or Warrant Holders Not Affected by Invalidity of any Portion of this Act or Dismissal of Petition. In the event that said petition for liquidation, refinancing or readjustment is dismissed, or that any of the provisions hereof for confirmation of the plan or acquisition of the bonds or warrants of the nonaccepting holders shall be declared invalid, such dismissal or declaration shall not affect the effectiveness of the plan with respect to the district or holders of bonds or warrants accepting the same.

Short Title

SEC. 20. Short Title. This act may be known and cited as "Irrigation District Refinancing Act."

Repeals

Sec. 21. Conflicting Acts Repealed. All acts or parts of acts in conflict with this act are hereby repealed.

DEPOSIT OF FUNDS AND SECURITY THEREFOR

DEPOSIT OF PUBLIC MONEYS

California Constitution, Article XI, Sec. 16½ [1]

All moneys belonging to, or in the custody of, the State, or any county, city and county, city, town, municipality or other public or municipal corporation, within this State may be deposited in any national bank or banks within this State, or in any bank or banks organized under the laws of this State, in such manner and under such conditions as may be provided by any law adopted by the people under the initiative or by a two-thirds vote of each house of the Legislature and approved by the Governor and subject to the referendum; provided, that the laws now governing the deposit of such moneys shall continue in force until such laws shall be amended, changed or repealed as in this section authorized; and provided, further, that the State or any county, city and county, city, town, municipality or other public or municipal corporation, issuing bonds under the laws of this State, may deposit moneys in any bank or banks outside this State for the payment of the principal or interest of such bonds at the place or places at which the same are payable. (Amendment adopted November 8, 1932.)

BONDS SECURITY FOR COUNTY AND MUNICIPAL OR PUBLIC CORPORATION DEPOSITS

An act to amend section 4 of an act entitled "An act to authorize and control the deposit in banks of money belonging to or in the custody of any county, city and county, city, town, municipality or other public or municipal corporation within the State, and to repeal all acts or parts of acts in conflict with this act," approved April 28, 1933, relating to securities for such deposits.

(Approved July 1, 1937, Stats. 1937, p. 2362.)

Security for Deposits

Sec. 4. For the security of inactive deposits there shall be deposited with such Treasurer treasury notes or bonds of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, or of this State or of any county, city and county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this State, or registered warrants of this State, which notes, bonds or registered warrants shall be approved by the treasurer and, as to eligibility, by the attorney of the county, city and county, city, town, municipality or other public or municipal corporation. The market value of the notes, bonds, or registered warrants furnished shall be at least ten per cent in excess of the amount of the deposit secured thereby; but the amount of the deposit shall in no case exceed the face value of the notes, bonds, or registered warrants furnished as security therefor. For the security of active deposits, there shall be deposited with such treasurer, treasury notes or bonds of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, or of this State, or of any county, city and county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this State, or registered warrants of this State, or the surety bond or bonds of any corporation or corporations qualified to act as sole surety on bonds or undertakings required by the laws of this State; provided, that the furnishing of surety bonds shall be optional with the treasurer; provided, however, that when there is no qualified bank within the county or city and county owning the money, or the county or counties within which the city, town, municipality or other public or municipal corporation owning the money is situated requesting such active deposit, and offering any of the classes of securities, including surety bonds, herein provided for such deposits, then no such surety bond or notes or bonds shall be accepted as security for active deposits in banks outside of such county while any notes or bonds of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, or of this State, or of any county, city and county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within the State, or registered warrants of this State, shall be offered as security for active deposits by any bank in the State qualified to accept such deposits; provided further, that the penalty or the aggregate of the penalties of any surety bond or bonds covering deposits in any one bank given by any surety company shall not exceed ten per cent of the capital and surplus of such company, according to the statement thereof contained in the last preceding report issued by the United States Treasury Department, but in fixing such limit there shall be deducted from such penalty the amount of any reinsurance the terms of which inure directly to the county, city and county, city, town, municipality or other public or municipal corporation making the deposit, placed with a company qualified to execute bonds hereunder within the limits applicable to said company and evidence of such reinsurance shall be furnished to the treasurer making the deposits within twenty days after the date of such surety bond.

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[1] Deposit of moneys by irrigation districts, see section 27b, California Irrigation District Act, *infra*, p. 85.

Such securities shall be approved by the treasurer of such county, city and county, city, town, municipality or other public or municipal corporation to an amount in market value at least ten per cent in excess of the amount of the deposit with such bank or banks, and as to eligibility of such securities by the attorney of such county, city and county, city, town, municipality, or other public or municipal corporation. No surety bond shall be accepted from any surety company, unless said company shall be approved by the Insurance Commissioner of the State as a company possessing the qualifications herein required to secure the deposit of any funds, and it shall be the duty of said commissioner to issue such certificate on demand of the proper officer of the county, city and county, city, town, municipality or other public or municipal corporation on showing the qualifications of such companies; and, unless said company shall also hold a certificate of authority from the United States Treasury Department as being acceptable as a surety on Federal bonds.

The general act for securing public moneys on deposit does not apply to irrigation districts.

Wood vs. *Imperial Irr. Dist.*, 216 Cal. 748.

See section 16½ of Article XI of the California Constitution, as amended November 8, 1932.

BONDS SECURITY FOR STATE BANK DEPOSITS

An act to authorize and control the deposit in banks of money belonging to or in the custody of the State and to repeal all acts or parts of acts in conflict with this act.

(Approved April 12, 1923, Stats. 1923, p. 21; amended Stats. 1927, p. 98; 1931, p. 2182; amended Stats. 1935, p. 1913.)

SEC. 4. For the security of inactive deposits, there shall be deposited with the Treasurer treasury notes or bonds of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, or bonds of this State or of any county, city and county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this State, or registered warrants of this State, which bonds or warrants shall be approved by the Governor, Controller and Treasurer, to an amount in value at least ten per cent in excess of the amount of the deposit with such bank or banks. For the security of active deposits, there shall be deposited with the Treasurer treasury notes or bonds of the United States or those for which the faith and credit of the United States are pledged for the payment of principal and interest or bonds of this State or of any county, city and county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this State, or registered warrants of this State, or the surety bond or bonds of any corporation or corporations qualified to act as sole surety on bonds or undertakings required by the laws of this State; provided, that the penalty or the aggregate of the penalties of any surety bond or bonds covering deposits in any one bank given by any surety company shall not exceed ten per cent of the capital and surplus of such company, according to the statement thereof contained in the last preceding report issued by the United States Treasury Department, but in fixing such limit there shall be deducted from such penalty the amount of any reinsurance the terms of which inure directly to the State of California, placed with a company qualified to execute bonds hereunder within the limits applicable to said company, and evidence of which reinsurance shall be furnished to the Treasurer within twenty days after the date of such surety bond. Such securities shall be approved by the Governor, Controller, and Treasurer to any amount in value at least ten per cent in excess of the amount of the deposit with such bank or banks. No surety bond shall be accepted from any surety company, unless said company shall be approved by the Insurance Commissioner of the State as a company possessing the qualifications herein required to secure deposit of State funds, and it shall be the duty of said commissioner to issue such certificate on demand of the State Treasurer showing the qualifications of such companies; and, unless said company shall also hold a certificate of authority from the United States Treasury Department as being acceptable as a surety on Federal bond. The form of bonds required under this act shall be prescribed by the Attorney General of the State.

BOND VALIDATING ACTS

Acts to validate certain bonds of certain irrigation districts and all proceedings relative thereto, and to provide for the levy and collection of taxes to pay the principal and interest on such bonds, are listed as follows: Stats. 1925, p. 373; Stats. 1931, p. 376; Stats. 1933, p. 572; Stats. 1935, p. 430; Stats. 1937, p. 360.

ISSUANCE OF DUPLICATE BONDS

An act to provide for the issuance of duplicates of bonds, warrants and other municipal securities which have become defaced or mutilated.

(Approved February 23, 1907, Stats. 1907, p. 53; amended, Stats. 1927, p. 350.)

Mutilated Bonds: Issuance of Duplicates

SECTION 1. Whenever it shall be made to appear to the legislative body of any county, city and county, city, town, irrigation district, reclamation district, school district or other municipal corporation, by clear and unequivocal proof, that any bond, warrant, or other evidence of indebtedness of said county, city and county, city, town, irrigation district, reclamation district, school district, or other municipal corporation has, without bad faith upon the part of the owner, been so mutilated or defaced as to impair its value to the owner, and such instrument is capable of being identified by number and description, such legislative body shall, under such regulations and with such restrictions as to time and retention for security or otherwise, as it may prescribe, and upon the conditions hereinafter provided, issue or cause to be issued a duplicate thereof, having the same time to run, bearing like interest, and having the same number as the evidence of indebtedness so proved to have been mutilated or defaced. (Amended, Stats. 1927, p. 350.)

Procedure to Procure Duplicates

SEC. 2. The owner of such bonds or other evidences of indebtedness desiring to have issued duplicates for the same, shall make a written application therefor to the legislative body of such municipal corporation setting forth the facts provided by section 1, and shall accompany such requests with a deposit of such sum of money as shall be deemed sufficient by such legislative body to cover the cost of printing or lithographing, or otherwise preparing such duplicate, and all other expenses connected with the issuance thereof, and if required by such legislative body, shall also file therewith a bond in such sum as may be required, with good and sufficient sureties, to be approved by such legislative body, with condition to indemnify and save harmless such municipal corporation from any claim upon such mutilated or defaced security.

Duty of Legislative Body

SEC. 3. The legislative body of such municipal corporation shall thereupon pass a resolution, setting forth the fact of said application and the compliance with the conditions herein prescribed, and with such further conditions as shall have been required by said legislative body in accordance herewith, and directing the officer or officers who had charge, in the first instance, of causing to be printed, lithographed, or otherwise prepared the original bond, warrant, or other evidence of indebtedness, to cause to be issued a duplicate thereof, as herein provided. Such duplicate bond, warrant, or other evidence of indebtedness shall be signed by the same officers, and issued in all respects as nearly as possible as the original instrument, and when so prepared and issued shall be delivered in exchange for the original bond, warrant, or other evidence of indebtedness; provided, that no exchange shall be made unless such defaced or mutilated bond, together with any coupons thereon for which duplicates shall be issued in accordance with this act, shall be capable of identification, and shall first be surrendered by the owner thereof. When surrendered, the legislative body of such municipal corporation shall cause proper record to be made of the cancellation of such original security, and thereafter the duplicate issued in accordance with the provisions of this act, shall have all the force, effect and validity of the original evidence of indebtedness.

Effective Date

SEC. 4. This act shall take effect immediately.

CANCELLATION OF BONDS AND INTEREST COUPONS

An act to provide for the release of all claims and liens arising from irrigation district bonds and interest coupons voluntarily surrendered for cancellation, and to provide for the establishment of record of such release.

(Approved May 1, 1911, Stats. 1911, p. 1460.)

Petition to Surrender Irrigation Bonds and Coupons

SECTION 1. Whenever a holder of bonds and interest coupons issued by an irrigation district organized under the provisions of an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March seven, eighteen hundred and eighty-seven, and all acts supplementary thereto, or amendatory thereof, including an act entitled, "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of the lands embraced within such districts, and, also, to provide for the distribution of water for irrigation purposes," approved March 31, 1897; shall desire to surrender such bonds and interest coupons and have the same canceled and discharged and released as a claim against said district and as a lien or charge thereon and against any of the land or property thereof or therein, and shall desire to have it established of record that said bonds and coupons and the said claims. liens and charges arising therefrom are canceled, discharged and released, he may file a petition for such purpose in the superior court for the county wherein is situated any of the land included in said district.

Proceeding in Rem

SEC. 2. By the filing of said petition, an action in the nature of a proceeding in rem against all persons interested in said bonds or coupons or any of them, shall be deemed commenced. Notice of said proceeding shall be given by filing a notice of the pendency of the proceeding in the office of the county recorder of each of the counties wherein is situated any of the land included in said district and by publication of a notice of the pendency of the proceeding once a week for at least four weeks in one newspaper published in each of the counties wherein is situated any of the land included in said district. The notice of the pendency of the proceeding shall contain the name of the petitioner, a description of the bonds and coupons with respect of which the proceeding is commenced, a brief description of the relief sought by the proceeding, the time when the proceeding will be heard by the court (which must not be earlier than thirty days after the last publication of said notice), and a notice to all persons interested in the proceeding requiring them to appear at such time at said court to show cause if any they have why the relief sought by the proceeding should not be granted.

Jurisdiction

SEC. 3. Upon the completion of the said publication and at the time named in the notice for the hearing, the court shall have full and complete jurisdiction of the petitioner and of the said bonds and coupons and of all parties having or claiming any interest of any kind in said bonds or coupons or any of them, for the purposes of said proceeding and shall have full and complete jurisdiction to render the judgment therein which is provided for by this act.

Hearing and Judgment

SEC. 4. Any person interested may at or before the time named in the notice for the hearing, appear and by answer filed to said petition contest the title of the petitioner to said bonds or coupons or any of them and the court shall order the entry of the default of all persons who shall have failed to so appear and answer. Thereupon or at such time to which the hearing may be continued. the court shall proceed and determine the ownership of said bonds and coupons and must in all cases require proof of the facts alleged in the petition. If the court finds that the petitioner is the owner of said bonds and coupons or some of them and that the allegations contained in the petition with respect of said bonds and coupons so owned by him are true, then the court shall by its judgment describe the bonds and coupons so owned by the petitioner and shall decree that they are surrendered, canceled, discharged and released as a claim against said district and as a lien or charge thereon and against any of the land or property thereof or therein and such judgment shall be conclusive and binding upon every person having or claiming any interest of any kind in said bonds or coupons or any of them and the said bonds and coupons shall thereupon be marked canceled by the clerk of said court and delivered by him into the possession of the said irrigation district whenever such district shall demand the same; and after said judgment, said bonds and coupons shall not comprise any claim, lien or charge against said district or any of the land or property thereof or therein.

Recordation of Judgment

SEC. 5. A certified copy of the judgment in said proceeding shall be recorded in the office of the county recorder of each of the counties wherein is situated any of the land included in said district and shall constitute complete notice that said bonds and coupons have been surrendered, canceled, discharged and released and do not comprise any claim, lien or charge against said district or any of the land or property thereof or therein.

Rules of Procedure Applicable

SEC. 6. Except as herein otherwise provided, all the provisions and rules of law relating to evidence, pleading, practice, new trials and appeals applicable to other civil actions, shall apply to the proceedings hereby authorized.

Effective Date

SEC. 7. This act shall take effect immediately.

CHAPTER III

CALIFORNIA IRRIGATION DISTRICT ACT AND RELATED LAWS

Preliminary Statement

In 1887 California passed the first irrigation district act of general application providing for the issuance of bonds. This act known as the Wright Act, remained on the statute books until 1897 when it was rewritten and reenacted as an entirely new law, which with its amendments is now known as the California Irrigation District Act. There have been a great many changes in and additions to the act since its passage in 1897. Each succeeding Legislature has made certain changes, in many cases mere matters of detail, as some parts of the law appeared to be unsuited or inadequate to the needs of some or all districts. There have, however, been additions as well as supplemental acts of great importance which have greatly affected the development and operation of districts under the law. These have related to the method of organization, issuance and refunding of bonds, levying and collection of assessments, delinquencies, penalties and redemptions, sale of water for power and other uses and the generation of hydroelectric power and the distribution and sale of electric energy.

CALIFORNIA IRRIGATION DISTRICT ACT[1]

An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of the lands embraced within such districts, and, also, to provide for the distribution of water for irrigation purposes.

(Approved March 31, 1897, Stats. 1897, p. 254; amended Stats. 1901, p. 815; 1905, p. 27; 1909, pp. 12, 46, 429, 461, 998, 1062, 1075; 1911, pp. 509, 1111; 1911 (extra session), pp. 135, 139, 248; 1913, pp. 59, 781, 993; 1915, pp. 836, 1291, 1326, 1367; 1917, pp. 751, 915; 1919, pp. 472, 660, 714; 1921, pp. 849, 859, 999, 1004, 1108; 1923, pp. 83, 627, 628, 630, 631, 632; 1925, pp. 429, 460, 488, 501; 1927, pp. 23, 26, 134, 186, 188, 189, 191, 194, 205, 251, 614; 1929, pp. 161, 257, 657, 686, 1170; 1931, pp. 121, 122, 123, 172, 233, 246, 247, 325, 378, 439, 777, 1661, 1897, 2206, 2270; 1933, pp. 328, 532, 540, 569, 800, 806, 1125, 1316, 1627, 2468; 1935, pp. 84, 359, 361, 362, 379, 407, 435, 463, 481, 1488, 1555, 1588, 1744, 1767; 1937, pp. 109, 173, 379, 457, 499, 508, 1407, 1408, 1410, 1416, 1417, 1466.7.[2]

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[1] NOTE.—Because the present act continues the principles of the original Wright Act of 1887, it is still popularly known as the "Wright Act." The Wright Act of 1887 was repealed, however, in 1897, upon the passage of the present act.

[2] NOTE.—The provisions of the present act, when adopted, were based upon the provisions of the Wright Act and acts supplemental thereto, as indicated below:

Present Act	*Original Acts*
§§1–65	Wright Act, Stats. 1887, p. 29.
§§68–72	Stats, 1889, p. 212.
§§74–84	Stats. 1889, p. 21; as amended 1893, p. 516.
§§85–97	Stats. 1889, p. 18.
§§98–99½	Stats. 1893, p. 276.
§§100–105	Stats. 1893, p. 295.
§§106–108	Stats. 1895, p. 127.

ORGANIZATION PROCEDURE

Proposal for Organization

SECTION 1. A majority in number of the holders of title or evidence of title to lands susceptible of irrigation from a common source and by the same system of works, including pumping from subsurface or other waters, such holders of title or evidence of title representing a majority in value of said lands, may propose the organization of an irrigation district, under the provisions of this act; or the organization of such an irrigation district may be proposed by not not less than five hundred petitioners, each petitioner to the number of at least five hundred to be an elector residing in the proposed district or the holder of title or evidence of title to land therein; provided, that the said petitioners must include the holders of title or evidence of title to not less than twenty per cent in value of the lands included within the proposed district. The lands proposed to be included within any such irrigation district need not consist of contiguous parcels. Any holder of land under a possessory right acquired by entry or purchase from the United States or the State of California shall be deemed to be a holder of evidence of title to said land within the meaning of this act. The county assessment roll of the county in which any lands included within such proposed irrigation district are situated, which assessment roll has been last equalized at the time of the first publication of said petition as provided in section 2 of this act, shall be conclusive evidence as to the value of said lands and the holders of title or evidence of title to said lands. If any parcel of land is assessed on any assessment roll to unknown or fictitiously named owners, or to unnamed owners in addition to any owner or owners named thereon, said parcel of land shall be deemed, for any of the purposes of this act, to have but one owner in addition to any owner or owners whose true name or names may be purported to be given on such assessment roll. The holder of title or evidence of title to an undivided interest in any land affected by any of the provisions of this act may sign any petition provided for in this act, and such undivided interest shall be counted and valued as though it were a separate interest, and if the assessment roll shall fail to indicate the extent of any such undivided interest, the holders of title or evidence of title whose undivided interests in any land are not specifically defined shall be deemed to have equal shares therein. Guardians, executors, administrators or other persons holding property in a trust capacity under appointment of court may sign any petition provided for in this act, when authorized by an order of court, which order may be made without notice. A certificate of acknowledgment taken before a notary public or justice of the peace of any State, or an affidavit by any person in the presence of whom such petition was signed, shall be sufficient evidence of the genuineness of such signature and of the fact of place of residence of any petitioners under this act. (Amended, Stats. 1919, p. 714.)

Organization:

Assessment roll as evidence of title.

In re Bonds of So. San Joaquin Irr. Dist., 161 Cal. 345, 119 Pac. 198.

Legislature may authorize initiatory proposal to be made by such person as it sees fit.

Imperial Water Co. vs. *Sup'rs*, 162 Cal. 14, 120 Pac. 780.

Holders of title or evidence of title.

Board of Directors vs. *Abila*, 106 Cal. 355, 39 Pac. 794;
Carson vs. *Cudworth* (Colo.), 10 Pac. 935;
In re Gallatin Irr. Dist. (Mont.), 140 Pac. 92–4;
Gem Irr. Dist. vs. *Johnson* (Idaho), 109 Pac. 845.

Inclusion of public land will not invalidate organization.

Cullen vs. *Glendora W. Co.*, 113 Cal. 503, 39 Pac. 769, 45 Pac. 822, 1047;
Stevens vs. *Melville* (Utah), 175 Pac. 602;
Nevada Bank vs. *Poso Irr. Dist.*, 140 Cal. 344, 73 Pac. 1056.

But some are not liable for assessments.

Nevada Bank vs. *Poso Irr. Dist., supra.*

Pueblo lands belonging to a city may be included and are liable to assessment.

San Diego vs. *Linda Vista Irr. Dist.*, 108 Cal. 189, 41 Pac. 291.

Erroneous exclusion of lands does not invalidate organization.

Central Irr. Dist. vs. *De Lauppe*, 79 Cal. 351, 21 Pac. 825;
Chambers vs. *Board of Sup'rs*, 57 Cal. App. 401, 207, Pac. 288;
Ells vs. *Board of Sup'rs*, 38 Cal. App. 480, 176 Pac. 709;
People vs. *Cardiff Irr. Dist.*, 51 Cal. App. 307, 197 Pac. 384;
Miller & Lux vs. *Board of Supervisors*, 189 Cal. 254, 208 Pac. 304;
Ser-Vis vs. *Victor Valley Irr. Dist.*, 190 Cal. 732, 214 Pac. 223.

Proceedings relating to organization only and not relating to assessments are not subject to the rule of strict construction.

Ells vs. *Board of Sup'rs*, 38 Cal. App. 480, 176 Pac. 709;
People vs. *Cardiff Irr. Dist.*, 51 Cal. App. 307, 197 Pac. 384.

In organization of district, board of supervisors exercise judicial function.

Imperial Water Co. vs. *Board of Sup'rs*, 162 Cal. 14, 120 Pac. 780;
Chambers vs. *Board of Sup'rs*, 57 Cal. App. 401, 207 Pac. 288;
Security-First N. Bank vs. *Board of Sup'rs*, 135 Cal. App. 208, 26 Pac. (2d) 862.

Right to use water from a common source and right to be excluded from district are both property rights of great value.

Imperial Water Co. vs. *Board of Sup'rs, supra.*

Meaning of "owner" in irrigation district statutes, 2 A. L. R. 791.

Petition to Organize District

SEC. 2. In order to propose the organization of an irrigation district, a petition signed by the requisite majority of holders of title or evidence of title to lands within the proposed district or by at least five hundred petitioners, as provided in section 1 of this act, shall be presented to the board of supervisors of the county in which the lands within the proposed district, or the greater portion thereof, are situated. Said petition shall set forth generally the boundaries of the proposed district and also shall state generally the source or sources (which may be in the alternative) from which said lands are proposed to be irrigated, and shall pray that the territory embraced within the boundaries of the proposed district may be organized as an irrigation district under the provisions of this act. The petition may consist of any number of separate instruments, and must be accompanied with a good and sufficient undertaking, to be approved by the board of supervisors, in double the amount of the probable cost of organizing such district, conditioned that the sureties shall pay all of said costs in case said organization shall not be effected. Said petition shall be presented at a regular meeting of said board, and shall be published for at least two weeks before the time at which the same is to be presented in some newspaper of general circulation printed and published in the county where such petition is presented together with a notice stating the time of the meeting at which the same will be presented; and if any portion of the lands within said proposed district lie within another county or counties, then said petition and notice shall be published, as above provided, in a newspaper published in each of said counties. When contained upon more than one instrument, one copy only of such petition need be published, but the names attached to all of said instruments must appear in such publication. On or before the day on which said petition is presented to said board of supervisors, a copy of said petition shall be filed in the office of the State Engineer. Signatures to the petition may be withdrawn at any time before the publication is commenced as in this section required, by filing a declaration, signed by the petitioner, with the board of supervisors before which the petition is to be presented, stating that it is the intention of the petitioner to withdraw therefrom, which declaration shall be acknowledged in the same manner as conveyances of real estate are required to be acknowledged. When said petition is presented, said board of supervisors shall hear the same and shall proceed to determine whether or not said petition complies with the requirements hereinbefore set forth and whether or not the notice required herein has been published as required, and must hear all competent and relevant testimony offered in support of or in opposition thereto. Said hearing may be adjourned from time to time for the determination of said facts, not exceeding two weeks in all. No defect in the contents of the petition or in the title to or form of the notice or signatures, and no lack of signatures thereto, or to the petition as published, shall vitiate any proceedings thereon; provided, such petition or petitions have a sufficient number of qualified signatures attached thereto. The determination of the board shall be expressed by resolution. If it shall determine that any of the requirements hereinbefore set forth have not been complied with, the matter shall be dismissed, but without prejudice to the right of the proper number of persons to present a new petition covering the same matter or to present the same petition with additional signatures, if such additional signatures are necessary to comply with the requirements of this act. If the board of supervisors shall determine that the petitioners have complied with the requirements hereinbefore set forth it shall cause a copy of the resolution so declaring to be forwarded to the State Engineer. Upon receiving a copy of said resolution, the State Engineer shall make or cause to be made such preliminary investigation as may be practicable, with a view to determining the feasibility of the project proposed to be undertaken. He shall report as soon as practicable, but at all events within ninety days from the date of the adoption of the said resolution, in writing, on the matter to the board of supervisors from which the copy of said resolution was received, except that upon receiving a written request from the State Engineer, the board of supervisors may at any meeting before the expiration of said ninety days grant to the State Engineer not more than ninety days additional time in which to make said report. If the State Engineer shall report within the time specified herein that the supply of water available for the use of the proposed district, or that may be acquired by any practicable means, including the condemnation of existing rights, is not sufficient or that the project is not feasible for any other reason or reasons, the hearing of the matter shall be continued for not more than two months and shall then be dismissed unless the board of supervisors shall be petitioned in writing by three-fourths of the holders of title or evidence of title to land within said proposed district to grant said petition; provided, that if the board of supervisors is not so petitioned, it may modify the plans for the proposed district in accordance with recommendations by the State Engineer. If after receiving an adverse report from the State Engineer the board of supervisors shall be petitioned as aforesaid or shall decide to modify the plans for the proposed district in accordance with recommendations by the State Engineer, it shall, at the time to which the hearing of said matter shall have been continued, set a time for the final hearing thereof. If the continuance of the matter is not compelled by an adverse report as aforesaid, the board of supervisors, at its first regular meeting after the receipt of a report from the State Engineer, or at the first regular meeting after the expiration of the time allowed for the making of such report if no such report has been received, shall set a time for a final hearing of the matter. In any case the time set for the final hearing as aforesaid shall not be less than one week from the meeting at which said time was set; provided, that notice of the time of such final hearing shall be given by registered mail to such party as shall have been designated for that purpose by the petitioners, or by publication for at least three days in one daily newspaper published in the county in which the lands within the proposed district, or the greater portion thereof are situated. A failure to give such last mentioned notice, however, shall not affect the validity of subsequent proceedings. On a final hearing herein provided for, the board may adjourn from time to time, but at no time for a longer period than three days until a determination of the matter is reached. On said final hearing said board shall make such changes in the proposed boundaries as it may deem advisable and shall define and establish such boundaries, but said board shall not modify said boundaries so as to exclude from such proposed district any territory which is susceptible of irrigation from any of the sources proposed, unless said board shall decide to modify the plan for such proposed district, as herein provided, nor shall any lands which will not, in the judgment of said board, be benefited by irrigation by means of said systems or works be included within such proposed district. Lands already irrigated and riparian lands may be included in the district if in the judgment of the board of supervisors such land will be benefited, or if the water used thereon or the rights to the use of water thereon should, in the judgment of the board of supervisors, be taken or acquired for the district. Any person whose lands are susceptible of irrigation from any of the proposed sources may, upon his application, in the discretion of said board, have such lands included within said proposed district. (Amended, Stats. 1919, p. 715.)

Petition:

The form or contents of the petition is not important, provided that it contains the required recitals showing the boundaries; the proposed sources of supply; that it is the purpose of the petitioners to organize an irrigation district; and praying that the same be organized thereunder.

Ells vs. *Board of Sup'rs*. 38 Cal. App. 480, 176 Pac. 709;
William Hanley Co. vs. *Harney Valley Irr. Dist.* (Ore.), 180 Pac. 725.

Petition, signatures, and bond for cost of organization:

Board of Directors vs. *Abila*, 106 Cal. 365, 39 Pac. 794;
Fogg vs. *Perris Irr. Dist.*, 154 Cal. 209, 97 Pac. 316;
Central Irr. Dist. vs. *DeLappe*, 79 Cal. 351, 21 Pac. 825;
In re Madera Irr. Dist., 92 Cal. 296, 28 Pac. 272, 675;
McAulay vs. *Board of Sup'rs*, 178 Cal. 628, 174 Pac. 30;
Security-First N. Bank vs. *Board of Sup'rs*, 135 Cal. App. 208, 26 Pac. (2d) 862;
Black Canyon Dist. vs. *Marple* (Idaho), 112 Pac. 766;
Covell vs. *Lee*, 71 Cal. App. 361, 235 Pac. 79.

Owners of possessory rights are eligible as petitioners.

Imperial Water Co. vs. *Sup'rs,* 162 Cal. 25, 120 Pac. 780.

It appears to be proper for the board of supervisors to appoint someone as referee to compare the petitions and assessment roll.

Imperial Water Co. vs. *Sup'rs, supra.*

The best evidence, however, is required.

Wilder vs. *Board, etc.* (Colo.), 135 Pac. 461;
Ahern vs. *Board of Directors* (Colo.), 89 Pac. 964.

The presentation to the board of a bond is jurisdictional, and where, although the bond was informal it was a binding obligation upon those who signed it, the proceedings are not rendered illegal. The supervisors may permit a new bond to be filed.

In re Madera Irr. Dist., 92 Cal. 329, 28 Pac. 272, 675;
Central Irr. Dist. vs. *DeLappe,* 79 Cal. 357; 21 Pac. 825;
Bliss vs. *Hamilton,* 171 Cal. 123, 152 Pac. 303.

Description of boundaries:

A description by metes and bounds sufficient for an ordinary conveyance will suffice. The petition is sufficient so long as the boundaries can be definitely located.

Central Irr. Dist. vs. *DeLappe,* 79 Cal. 351, 21 Pac. 825;
In re Madera Irr. Dist., 92 Cal. 296; 28 Pac. 272, 675;
Cullen vs. *Glendora Water Co.,* 113 Cal. 503, 39 Pac. 769, 45 Pac. 822, 1047;
Board of Directors vs. *Kimball* (Wash.), 157 Pac. 38;
Metcalfe vs. *Merritt,* 14 Cal. App. 244, 111 Pac. 505;
Miller & Lux vs. *Secara,* 193 Cal. 755, 227 Pac. 171;
Yoder vs. *Board of Sup'rs,* 208 Cal. 368, 281 Pac. 393.

Land in irrigation district may be included in municipal water district.

Henshaw vs. *Foster,* 176 Cal. 507, 169 Pac. 82.

Land in irrigation district may be included in public utility district; need not embrace all of irrigation district as latter is not a municipal corporation.

Randolph vs. *Co. of Stanislaus,* 44 Cal. App. 322, 186 Pac. 625.

Irrigation district may embrace lands lying in more than one county.

Turlock Irr. Dist. vs. *Williams,* 76 Cal. 360, 18 Pac. 379.

Notice, publication, etc.:

In re Central Irr. Dist., 117 Cal. 382, 49 Pac. 354;
Fogg vs. *Perris Irr. Dist.,* 154 Cal. 209, 97 Pac. 316;
Imperial Water Co. vs. *Sup'rs,* 162 Cal. 14, 120 Pac. 780;
Tulare Dist. vs. *Shepard,* 185 U. S. 1, 46 L. Ed. 773; 22 Sup. Ct. 531;
Ells vs. *Board of Sup'rs,* 38 Cal. App. 480, 176 Pac. 709;
Miller & Lux vs. *Board of Sup'rs,* 118 Cal. App. 416, 5 Pac. (2) 612;
Wm. Hanley Co. vs. *Harney Valley Irr. Dist.* (Ore.), 180 Pac. 724.

The time set for the hearing must be at a regular meeting of the board of supervisors, but it is not necessary that the notice specify that fact.

Imperial Water Co. vs. *Supr's, supra.*

The notice need not be separately signed and may precede the petition, with the signatures attached to the petition.

Fogg vs. *Perris Dist., supra;*
Ells vs. *Board of Sup'rs, supra.*

The date of the petition and notice should not vary.

Ahern vs. *Board of Directors* (Colo.), 89 Pac. 964.

Hearing:

At the hearing, the assessment roll is sufficient evidence of ownership.

In re Bonds of So. San Joaquin Irr. Dist., 161 Cal. 345, 119 Pac. 198.

Right to withdraw from petition:

A petitioner may withdraw his name from the petition at any time prior to its presentation to the board of supervisors on the day fixed therefor; but see amendment of 1919 suspended by referendum.

McAulay vs. *Board of Sup'rs,* 178 Cal. 628, 174 Pac. 30;
Covell vs. *Lee,* 71 Cal. App. 361, 235 Pac. 79.

Inclusion and exclusion of lands:

While it appears that the action of the board can not be arbitrary (*Ahern* vs. *Board of Directors* (Colo.), 89 Pac. 964), yet in the absence of fraud the action of the board of supervisors can not be attacked.

Cullen vs. *Glendora Water Co.,* 113 Cal. 503, 39 Pac. 769, 45 Pac. 822, 1047;

Fallbrook Irr. Dist. vs. *Bradley,* 164 U. S. 112.

The application for inclusion or exclusion need not be in writing.

Central Irr. Dist. vs. *DeLappe,* 79 Cal. 351, 21 Pac. 825.

Character of irrigation districts:

Western Assurance Co. vs. *Drainage Dist.*, 72 Cal. App. 76, 237 Pac. 59;
Jenison vs. *Redfield*, 149 Cal. 500, 87 Pac. 62;
Lindsay-Strathmore Irr. Dist. vs. *Superior Court*, 182 Cal. 315, 187 Pac. 1056;
Turlock Irr. Dist. vs. *White*, 186 Cal. 183, 198 Pac. 1060; 17 A. L. R. 72;
Tormey vs. *Anderson-Cottonwood Irr. Dist.*, 53 Cal. App. 559, 200 Pac. 814;
Whiteman vs. *Anderson-Cottonwood Irr. Dist.*, 60 Cal. App. 234, 212 Pac. 706;
Wood vs. *Imperial Irr. Dist.*, 216 Cal. 748, 17 Pac. (2d) 128, 130;
Morrison vs. *Smith Bros.*, 211 Cal. 36, 293 Pac. 53;
Yolo vs. *Modesto Irr. Dist.*, 216 Cal. 274, 13 Pac. (2d) 908;
Jackson Co. vs. *Byron-Bethany Irr. Dist.*, 136 Cal. App. 375, 29 Pac. (2d) 217;
Jordan vs. *Williams Irr. Dist.*, 13 Cal. App. (2d) 465, 57 Pac. (2d) 566;
Williams vs. *Merced Irr. Dist.*, 4 Cal. (2d) 238, 48 Pac. (2d) 664.

Character of land that may be included:

As to the land that may be included within a district, the jurisdiction of the board seems to be very broad. It is proper to include cities and any land that in its natural state would be benefited by irrigation.

La Mesa Homes Co. vs. *La Mesa Irr. Dist*, 173 Cal. 121, 159 Pac. 593;
Tregea vs. *Modesto Irr. Dist.*, 164 U. S. 179;
Fallbrook Irr. Dist. vs. *Bradley*, 164 U. S. 112.

On the inclusion of city or town lots, *see also*

Board of Directors vs. *Tregea*, 88 Cal. 334, 26 Pac. 237;
In re Madera Irr. Dist., 92 Cal. 296, 28 Pac. 272, 675;
Board of Directors vs. *Abila*, 106 Cal. 365, 39 Pac. 794;
In re Central Irr. Dist., 117 Cal. 382, 49 Pac. 354;
Imperial Water Co. vs. *Sup'rs*, 162 Cal. 14, 120 Pac. 780;
Nampa Irr. Dist. vs. *Brose* (Idaho), 83 Pac. 499;
Chambers vs. *Board of Supervisors*, 57 Cal. App. 401, 207 Pac. 288.

It appears that rights of way of railroads may likewise be included.

Oregon Short Line, etc., vs. *Pioneer Dist.* (Idaho), 102 Pac. 905.
See, also, *Atchison, T. & S. F. Ry. Co.* vs. *Rec. Dist.*, 173 Cal. 91, 159 Pac. 430; *Southern Pacific Co.* vs. *Stibbens*, 103 Cal. App. 664, 285 Pac. 374.

Fixing of boundaries by board of supervisors:

Central Irr. Dist. vs. *DeLappe*, 79 Cal. 351, 21 Pac. 825;
Cullen vs. *Glendora Water Co.*, 113 Cal. 517, 39 Pac. 769, 45 Pac. 822, 1047;
Board of Directors vs. *Tregea, supra;*
Imperial Water Co. vs. *Sup'rs, supra;*
Board of Directors vs. *Kimball* (Wash.), 157 Pac. 38;
Ahern vs. *Board of Directors* (Colo.), 89 Pac. 963.

Inclusion or exclusion after organization:

Where the petitioner brings himself within the specified classes of those entitled to exclusion, he has an absolute right to such exclusion and writ of mandate will issue to enforce such right, and he is not estopped by participation in formation proceedings.

Harelson vs. *San Joaquin Irr. Dist.*, 20 Cal. App. 324, 128 Pac. 1010.

As to necessity of notice to owners of included lands in case of proceedings for change of boundaries, *see*

People vs. *Cardiff Irr. Dist.*, 51 Cal. App. 307, 197 Pac. 384, 26 Cal. Jur., p. 372.

Injunction may be granted, in a proper case, to prevent inclusion of lands.

Harbough vs. *Enlarged Baxter Creek Irr. Dist.*, 58 Cal. App. 134, 207 Pac. 1018.

State Engineer, procedure upon receipt of adverse report by:

Rich et al vs. *Connelly*, 52 Cal. App. 556, 199 Pac. 540.

The report of the State Engineer, the certificate of acknowledgment and the affidavit annexed to the petition may be considered by the board in arriving at the jurisdictional facts.

Miller & Lux vs. *Board of Sup'rs*, 189 Cal. 254, 209 Pac. 304.

The report of the State Engineer is advisory only.

Rich vs. *Connelly*, 52 Cal. App. 556, 199 Pac. 540.

Where organization is defeated the burden of cost is placed on the promoter under the required undertaking.

Ser-Vis vs. *Victor Valley Irr. Dist.*, 190 Cal. 732, 214 Pac. 223.

The provision that errors in or omissions of names shall not vitiate proceedings is valid.

Ells vs. *Board of Sup'rs,* 38 Cal. App. 480, 176 Pac. 709.

It is not a jurisdictional defect that the notice of time of presentation of the petition to the board of supervisors is not signed by all petitioners.

Imperial Water Co. vs. *Board of Sup'rs,* 162 Cal. 14, 120 Pac. 780.

The petition for formation is the basis for all proceedings and all else is evidentiary and procedural.

Rich vs. *Connelly,* 52 Cal. App. 556, 199 Pac. 540.

State Engineer to Furnish Information

SEC. 2a. The State Engineer shall have authority, and it shall be his duty, to give information so far as may be practicable to persons contemplating the organization of irrigation districts under the provisions of this act. Whenever the department of engineering shall deem it in the public interest that preliminary surveys and field investigations of proposed irrigation district projects shall be made at the expense of the State, the State Engineer shall make such surveys and field investigations of such proposed irrigation district projects, and, pending the completion of such surveys and investigation, the State Water Commission shall have authority to withhold from appropriation any unappropriated waters likely to be needed therefor. (Added, Stats. 1917, p. 755.)

Miller & Lux vs. *Board of Sup'rs,* 189 Cal. 254, 208 Pac. 304;
Miller & Lux vs. *Secara,* 193 Cal. 755, 227 Pac. 171.

Order of Supervisors Reaffirming Conclusions

SEC. 3. Upon the final hearing of said petition or said matter, the board of supervisors shall make an order reaffirming its conclusions as to the genuineness and sufficiency of the petition and notice hereinbefore provided for, reciting that a report regarding the proposed district has been made by the State Engineer and is on file with the other records of the board, and describing the boundaries of the proposed district as defined and established by said board. Said order shall be entered in full upon the minutes of said board. At said final hearing no evidence shall be heard against the genuineness or sufficiency of said petition or notice unless it shall be shown to the satisfaction of said board that new evidence which, if uncontradicted, would disprove the genuineness or sufficiency of said petition or notice has been discovered since said board adopted the resolution declaring that said petition and notice complied with all the requirements of this act. In case any new evidence is admitted, full opportunity shall be given for the introduction of evidence in rebuttal thereof. (Amended, Stats. 1913, p. 996.)

Sufficiency of petition and genuineness of signatures to be determined by board of supervisors.

Imperial Water Co. vs. *Sup'rs,* 162 Cal. 14, 120 Pac. 780;
Ells vs. *Board of Sup'rs,* 38 Cal. App. 480, 176 Pac. 709;
Rich vs. *Connelly,* 52 Cal. App. 556, 199 Pac. 540.

Findings of Board to Be Conclusive

SEC. 4. A finding of the board of supervisors in favor of the genuineness and sufficiency of the petition and notice shall be final and conclusive against all persons except the State of California upon suit commenced by the Attorney General. Any such suit must be commenced within one year after the order of the board of supervisors declaring such district organized as herein provided, and not otherwise. (Amended, Stats. 1911, extra session, p. 139.)

Former section 4 providing for appeal to superior court held unconstitutional.

Chinn vs. *Superior Court*, 156 Cal. 478, 105 Pac. 580.

Certiorari.

Imperial Water Co. vs. *Board of Sup'rs*, 162 Cal. 14, 120 Pac. 780:
Miller & Lux vs. *Board of Sup'rs*, 189 Cal. 254, 209 Pac. 304.

Conclusiveness of order.

Fallbrook Irr. Dist. vs. Bradley, 164 U. S. 112, 171; 41 L. Ed. 369, 394; 17 Sup. Ct. 56, 69;
People vs. *Hagar*, 52 Cal. 171-182;
Miller & Lux vs. *Board of Supervisors, supra;*
Board of Directors vs. *Tregea*, 88 Cal. 335, 26 Pac. 237;
In re Madera Irr. Dist., 92 Cal. 296, 28 Pac. 272, 675;
O'Neill vs. *Yellowstone Dist.* (Mont.), 121 Pac. 283;
Progressive Irr. Dist. vs. *Smith* (Idaho), 156 Pac. 1133;
Board of Directors vs. *Peterson* (Ore.), 129 Pac. 123;
Links vs. *Anderson* (Ore.), 168 Pac. 605;
Herrett vs. *Warm Springs Dist.* (Ore.), 168 Pac. 609;
Andrews vs. *Lillian Irr. Dist.* (Nebr.), 97 N. W. 336;
Sowerwine vs. *Central Dist.* (Nebr.), 124 N. W. 119;
Ells vs. *Board of Sup'rs.* 38 Cal. App. 480, 176 Pac. 709;
Miller & Lux vs. *Secara*, 193 Cal. 755, 227 Pac. 171.

Statute of limitations.

(See Sec. 72, *infra.*)
In re Central Irr. Dist.. 117 Cal. 382, 49 Pac. 354;
People vs. *Perris Irr. Dist.*, 142 Cal. 601, 76 Pac. 381;
Miller vs. Perris Irr. Dist., 85 Fed. 693;
Tulare Irr. Dist. vs. *Shepard*, 185 U. S. 1, 18; 46 L. Ed. 773; 22 Sup Ct. 531;
Progressive Irr. Dist. vs. *Anderson* (Idaho), 114 Pac. 16-18.

Bona fide attempt to organize followed by user.

Tulare Irr. Dist. vs. *Shepard (supra)*.

District Divisions and Election of Directors

SEC. 5. If on said final hearing, the boundaries of the proposed district are defined and established, said board shall make an order dividing said district into five divisions, as nearly equal in size as may be practicable, which shall be numbered first, second, third, fourth and fifth, and one director shall be elected for each division by the electors thereof; provided, that if so requested in said petition, the board may order that there shall be only three divisions in said district, and that only three directors be elected, and that the directors may be elected by the district at large, or by divisions, as such petition shall provide, but in any event such directors shall be elected to represent separate divisions and shall be residents of the respective divisions they are elected to represent. (Amended, Stats. 1915, p. 1368.)

Cullen vs. *Glendora Water Co.*, 113 Cal. 503, 39 Pac. 769, 45 Pac. 822, 1047;
Abbey vs. *Board of Directors*, 58 Cal. App. 757, 209 Pac. 709.

ELECTION ON ORGANIZATION

Call and Notice for Election; Ballots

SEC. 6. Said board of supervisors shall then call and cause notice to be given of an election to be held in such proposed district, for the purpose of determining whether or not the same shall be organized under the provisions of this act, and to elect persons to fill the offices of said proposed district in case it shall be organized. Such notice shall describe the boundaries so established and shall designate a name for the proposed district, and specify the offices for which candidates may be voted for at said election. Said notice shall be published three times, to wit, once a week for three weeks, previous to such election, in a newspaper published within the county in which the petition for the organization of the proposed district was presented; and if any portion of such proposed district is within another county or counties, then such notice shall be published for the same length of time in a newspaper published in each of said counties. For the purposes of said election the board of supervisors must establish a convenient number of election precincts in said proposed district, and define the boundaries of the same. Election officers for said election shall be appointed, candidates for the offices of said proposed district shall be nominated, ballots and other supplies shall be provided and such election shall be conducted as nearly as practicable in accordance with the provisions of this act concerning general irrigation district elections, unless herein otherwise particularly provided, excepting, however, that the board of supervisors shall act in place of the board of directors and the clerk of the board of supervisors shall act in place of the secretary of the board of directors. On the ballots provided for said election shall be printed a proposition substantially as follows: "Shall the proposed ---------- irrigation district be organized?" followed by the words "Yes" and "No," with voting space thereafter. No informalities in the conduct of said election or in any matters relating thereto shall invalidate said election or the result thereof if notice thereof shall have been given substantially as herein provided and said election shall have been fairly conducted. (Amended, Stats. 1931, p. 123.)

Imperial Water Co. vs. *Board of Sup'rs,* 162 Cal. 14, 120 Pac. 780;
Central Irr. Dist. vs. *DeLappe,* 79 Cal. 351, 21 Pac. 825;
Cullen vs. *Glendora Water Co.,* 113 Cal. 503, 39 Pac. 769, 45 Pac. 822, 1047;
Links vs. *Anderson* (Ore.), 168 Pac. 1182;
Ells vs. *Board of Sup'rs,* 38 Cal. App. 480, 176 Pac. 709;
Covell vs. *Lee,* 71 Cal. App. 361, 235 Pac. 79;
Abbey vs. *Board of Directors,* 58 Cal. App. 757, 209 Pac. 709.

Elective Officers

Sec. 7. At such election there shall be elected a board of directors, and an assessor, collector, and treasurer; provided, that where a consolidation of officers as hereinafter provided for is deemed advisable in the organization of a district, the petitioners may request in their petition for organization such consolidation, and the board of supervisors calling the election shall in its order therefor announce such consolidation, and then only one person shall be elected to fill the several offices so consolidated. (Amended, Stats. 1929, p. 686.)

Childers vs. *Commr. of Internal Revenue,* 18 Fed. (2) 27.

Qualifications of Electors

Sec. 8. No person shall be entitled to vote at any election held under the provisions of this act unless he possesses all the qualifications required of electors under the general election laws of the State.

It is immaterial that nonresident landowners within the district are excluded from voting.

In re Madera Irr. Dist., 92 Cal. 321, 28 Pac. 272, 675.

Exercise of suffrage within district is not limited by constitutional provisions re exercise of franchise.

Potter vs. *Santa Barbara,* 160 Cal. 349; 116 Pac. 1101;
Tarpey vs. *McClure,* 190 Cal. 593, 213 Pac. 983;
Barber vs. *Galloway,* 195 Cal. 1, 231 Pac. 34.

Canvass of Votes

Sec. 9. The board of supervisors shall meet on the second Monday succeeding such election, and shall proceed to canvass the votes cast thereat, and if upon such canvass it appears that a majority of all the votes cast are "Irrigation District—Yes," said board shall, by an order entered on its minutes declare the territory duty organized as an irrigation district, under the name theretofore designated, and shall declare the persons receiving respectively the highest number of votes at said election to be duly elected. (Amended, Stats. 1919, p. 718.)

Imperial Water Co. vs. *Board of Sup'rs,* 162 Cal. 14, 120 Pac. 780;
Progressive Irr. Dist. vs. *Anderson* (Idaho), 114 Pac. 16;
Security-First N. Bk. vs. *Board of Sup'rs,* 135 Cal. App. 208, 26 Pac. (2d) 862.

Order to Be Filed With County Recorder

SEC. 10. Said board shall then cause a copy of such order, duly certified, to be immediately filed for record in the office of the county recorder of any county in which any portion of the lands embraced in such district are situated, and must also immediately forward a copy thereof to the clerk of the board of supervisors of each of said last mentioned counties, and no board of supervisors of any county in which any portion of the lands embraced in such district are situated shall, after the date of the organization thereof, allow another district to be formed including any portion of said lands, without the consent of the board of directors of the district in which they are situated. From and after such filing, the organization of such district shall be complete.

Courts have no power to dissolve an irrigation district in the absence of statutory authority.

People vs. *Selma Irr. Dist.,* 98 Cal. 206, 32 Pac. 1047.

When the organization of the district as been declared by order of the board of supervisors, the order is notice to its inhabitants and to the world of its existence and of its boundaries.

Fogg vs. *Perris Irr. Dist.,* 154 Cal. 209, 97 Pac. 316;
Progressive Irr. Dist. vs. *Anderson* (Idaho), 114 Pac. 16.

Ser-Vis vs. *Victor Valley Irr. Dist.,* 190 Cal. 732, 214 Pac. 223.

Election Contest; Appeal to Supreme Court

SEC. 11. Such election on organization may be contested by any person owning property within the proposed district liable to assessment. The directors elected at such election shall be made parties defendant. Such contest shall be brought in the superior court of the county where the petition for organization is filed; provided, that if more than one contest be pending they shall be consolidated and tried together. The court having jurisdiction shall speedily try such contest, and determine, upon the hearing, whether the election was fairly conducted and in substantial compliance with the requirements of this act, and enter its judgment accordingly. Such contest must be brought within twenty days after the canvass of the vote and declaration of the result by the board of supervisors. The right of appeal is hereby given to either party to the record within thirty days from entry of judgment. The appeal must be heard and determined by the supreme court within sixty days from the time of filing the notice of appeal.

Tenure of Office

SEC. 12. The officers elected at the election hereinbefore provided for shall immediately enter upon their duties as such, upon qualifying in the manner for such officers herein provided. Said officers shall hold office respectively until their successors are elected and qualified.

Officers of irrigation district are public officers.

In re Madera Irr. Dist., 92 Cal. 296, 28 Pac. 272, 675;
People vs. *Selma Dist.,* 98 Cal. 206, 32 Pac. 1047;
Perry vs. *Otay Irr. Dist.,* 127 Cal. 565, 60 Pac. 40;
Recl. Dist. vs. *Superior Court,* 171 Cal. 672, 154 Pac. 845;
Rose vs. *Superior Court,* 80 Cal. App. 739, 252 Pac. 765;
Fallbrook Irr. Dist. vs. *Bradley,* 164 U. S. 174, 41 L. Ed. 394, 17 Sup. Ct. 69.

DUTIES AND POWERS OF THE BOARD OF DIRECTORS

Organization

SEC. 13. The directors of any district created after the passage of this act, on the first Tuesday after they have been elected and after they shall have qualified, shall meet and classify themselves by lot into two classes as nearly equal in number as possible, and the term of office of the class having the least number shall expire at noon on the first Tuesday in March of the next odd-numbered year after the year in which said meeting is held, and the term of office of the class having the greater number shall expire at noon on the first Tuesday in March of the second odd-numbered year after the year in which said meeting is held. After such classification, said directors shall organize as a board, shall elect a president from their number, and appoint a secretary, who shall each hold office during the pleasure of the board. The salary of the secretary and the amount of the bond to be given by him for the faithful performance of his duties shall be fixed by the board of directors. (Amended, Stats. 1927, p. 186.)

Board of directors have no power to appoint their own members as secretary or superintendent.

Interstate Trust Co. vs. *Steele* (Colo.), 173 Pac. 873-5.

As to power of director to act on own claims, *see*

Reclamation Dist. vs. *McCullah*, 124 Cal. 175, 56 Pac. 887.

Monthly Meetings; Quorum

SEC. 14. The board of directors shall hold a regular meeting on the first Tuesday of each month at the place selected as the office of the board; provided, that the board may, by resolution duly entered upon its minutes, fix any other time as the time for its regular monthly meeting, but no change in the time of holding regular meetings of the board shall be made until after the resolution proposing such change has been published once a week for two successive weeks in a newspaper published in the county in which the office of the district is kept. Such special meetings of the board of directors may be held as may be required for the proper transaction of the business of the district, but a special meeting must be ordered by a majority of the board. The order must be entered of record, and five days notice thereof must by the secretary be given to each director not joining in the order. The order must specify the business to be transacted, and no other business than that specified in the order may be transacted at such special meeting, unless all the members are present and consent to the consideration of any business not specified in said order. All meetings of the board must be public and three members shall constitute a quorum for the transaction of business; provided, however, that when the board consists of three members only, then in such case two shall constitute a quorum for the transaction of business, but on all questions requiring a vote, except a motion to adjourn or a motion to adjourn to a stated time, there shall be a concurrence of at least the number constituting a quorum. A smaller number of directors than a quorum may adjourn from day to day. All records of the board shall be open to public inspection during business hours. Whenever any act is required to be done or proceeding taken by this act, or by an act supplemental or amendatory thereto, on the first Tuesday in any month, such act may be done or proceeding had upon the day specified in the resolution hereinbefore referred to as the time for the regular meeting of the board of directors; provided, also, that when a day other than the first Tuesday in the month shall have been specified as the time for the regular meeting of the board of directors, thereafter the newly elected officers of the district shall take office at noon on the day fixed for the regular monthly meeting of said board in March and said board shall meet for reorganization and the transaction of any other business of the district in the afternoon of said day. (Amended, Stats. 1917, p. 755.)

Imperial Land Co. vs. *Imperial Irr. Dist.*, 173 Cal. 660, 161 Pac. 113.

Publication of Financial Condition

SEC. 14a. The board of directors at their regular monthly meeting in January of each year shall render and immediately thereafter cause to be published a verified statement of the financial condition of the district, showing particularly the receipts and disbursements of the last preceding year, together with the source of such receipts and purpose of such disbursements. Said publication shall be made at least once a week for two weeks, in some newspaper published in the county where the office of the board of directors of such district is situated. (Added, Stats. 1917, p. 756.)

General Powers and Duties of Directors

SEC. 15. The board of directors shall have the power and it shall be their duty to manage and conduct the business and affairs of the district; make and execute all necessary contracts; employ and appoint such agents, officers and employees as may be required, and prescribe their duties and fix their salaries[1]; to approve and reject as to number any and all deputies of elective and appointive officers and to remove any deputy or deputies for good cause or for lack of work or funds and to fix and alter the salaries of such deputies. The board and its agents and employees shall have the right to enter upon any land and make surveys, and may locate the necessary irrigation works and the line for canal or canals, and the necessary branches for the same on any lands which may be deemed best for such location. Said board shall also have the right to acquire by purchase, lease, contract, condemnation,[2] or other legal means, all lands, and waters, and water rights, and other property necessary for the construction, use, supply, maintenance, repair and improvements of said canal, or canals, and works, whether in this or in other States[3] or in a foreign nation, including canals, and works constructed and being constructed by private owners,[4] lands for reservoirs for the storage of needful waters, and all necessary appurtenances, and also, where necessary or convenient to said ends and for said uses and purposes, to acquire and hold the stock of corporations, domestic or foreign,[5] owning waters, water rights, canals, waterworks, franchises, concessions or rights. Said board may enter into, and do any acts necessary or proper for the performance of any agreements with the United States[1] or any State, county, district of any kind, public or private corporation, association, firm or individual, or any number of them,[2] for the joint acquisition, construction, leasing ownership, disposition, use, management, maintenance, repair or operation of any rights, works or other property of a kind which might lawfully be acquired or owned by the irrigation district, and may acquire the right to store water in any reservoirs or to carry water through any canal, ditch or conduit not owned or controlled by the district, and may grant to any owner or lessee of the right to the use of any water the right to store such water in any reservoir of the district or to carry such water through any canal, ditch or conduit of the district. Said board may also enter into and do any acts necessary or proper for the performance of any agreement with the district of any kind, public or private corporation, association, firm or individual, or any number of them, for the transfer or delivery to any such district, corporation, association, firm or individual, of any water right or water pumped, stored, appropriated, or otherwise acquired or secured for the use of the irrigation district or for the purpose of exchanging the same for other water or water right or water supply in exchange for water or water right or water supply to be delivered or transferred to said irrigation district by the other party to said agreement. (Amended Stats. 1937, p. 173.)

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[1] Section 7 of the Workmen's Compensation, Insurance and Safety Act of 1917 (as amended by Stats. 1919, p. 913) provided that the term "employer" as used in the act, shall be construed to include irrigation districts.

[2] For power of district to take immediate possession of right of way in eminent domain proceedings, see Art. I, Sec. 14, of the Constitution.

[3] For regulations governing agreements with irrigation districts in adjoining states, see supplementary act of 1917 (Stats. 1917, p. 905.)

[4] The procedure before the Railroad Commission for the valuation of the property of a public utility in condemnation proceedings instituted by a district is prescribed in sections 47 and 70 of the Public Utilities Act (as amended by Stats. 1917, p. 261).

[5] Districts are given authority to acquire the stock of any foreign corporation owning a system in a foreign country by Art. IV, Sec. 31, of the Constitution.

As to liability of district for preorganization expenses, *see*

Ser-Vis vs. *Victor Valley Irr. Dist.*, 190 Cal. 732, 214 Pac. 223;
Biggart vs. *Lewis*. 183 Cal. 166, 192 Pac. 437;
Wilbur vs. *Tia Juana Irr. Dist.*, 94 Cal. App. 511, 271 Pac. 514.

Mandamus will not issue to compel an irrigation district to construct canals, etc., where it is not shown that it has available funds.

Nelson vs. *Anderson-Cottonwood Irr. Dist.*, 51 Cal. App. 92, 196 Pac. 292.

An irrigation company can obtain right to run waste water by an executed oral license.

Imperial Water Company vs. *Wores*, 29 Cal. App. 253, 155 Pac. 124.

Liability for seepage where right of way granted or condemned.

Groff vs. *Reclamation Dist.*, 108, 97 Cal. App. 22, 274 Pac. 993;
Sternes vs. *Sutter-Butte Canal Co.*, 61 Cal. App. 737, 216 Pac. 66;
Yolo Water & Power Co. vs. *Hudson*, 182 Cal. 48, 186 Pac. 772;
Sutro Heights, etc. Co. vs. *Merced Irr. Dist.*, 211 Cal. 670, 296 Pac. 1088;

Edmunds vs. *Glenn-Colusa Irr. Dist.*, 217 Cal. 436, 19 Pac. (2d) 902;
Spurrier vs. *Mitchell Irr. Dist.*, 74 A. L. R. 884.

"Property necessary" includes pipe line.

Rialto Irr. Dist. vs. *Brandon*, 103 Cal. 384, 37 Pac. 484.

The mode, time and manner of executing the powers granted by this section are found in sections 30, 30a, 37, 39, 55, 59 and 61.

Bottoms vs. *Madera Irr. Dist.*, 74 Cal. App. 681, 242 Pac. 100.

District liable for negligence of employees in operating power plant.

Yolo vs. *Modesto Irr. Dist.*, 216 Cal. 274, 13 Pac. (2d) 908.

Districts may be required to install fish screens.

People vs. *Glenn-Colusa Irr. Dist.*, 127 Cal. App. 30, 15 Pac. (2d) 549.

Buschmann vs. *Turlock Irr. Dist.*, 47 Cal. App. 321, 190 Pac. 491;
N. P. Ry. Co. vs. *John Day Irr. Dist.* (Ore.), 211 Pac. 781;
Danley vs. *Merced Irr. Dist.*, 66 Cal. App. 97, 226 Pac. 847;

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[1] Authority to enter into agreements with the United States government under the federal reclamation laws is given by Stats. 1917, p. 243. Supplementary powers are also given by Stats. 1907, p. 569, providing for drainage by districts, and Stats. 1913, p. 75, permitting the employment of agricultural experts by districts.

[2] See Art. IV, Sec. 31, of the Constitution.

Crawford vs. *Imperial Irr. Dist.*, 200 Cal. 318, 253 Pac. 726;
Kelsey vs. *Madera Irr. Dist.*, 66 Cal. App. 113, 226 Pac. 853;
San Diego vs. *La Mesa, L. G. & S. V. Irr. Dist.*, 109 Cal. App. 280, 292 Pac. 1082;
Lindsay-Strathmore Irr. Dist. vs. *Wutchumna Water Co.*, 111 Cal. App. 688, 296 Pac. 933;
Willard vs. *Glenn-Colusa Irr. Dist.*, 201 Cal. 726, 258 Pac. 959;
Woods vs. *Baxter Creek Irr. Dist.*, 25 Fed. (2d) 296;
Lindsay-Strathmore Irr. Dist., vs. *Superior Court*, 121 Cal. App. 606, 9 Pac. (2d) 579;
Childers vs. *Commr. of Internal Revenue*, 80 Fed. (2d) 27.

Irrigation district may sue and be sued.

Boehmer vs. *Big Rock Irr. Dist.*, 117 Cal. 19, 48 Pac. 908;
Peters vs. *Union Gap Irr. Dist.* (Wash.), 167 Pac. 1085;
Danley vs. *Merced Irr. Dist. et al.*, 66 Cal. App. 97, 226 Pac. 847;
Noon vs. *Gem Irr. Dist.*, 205 Fed. 402.

Power of directors to make contracts.

Board of Directors vs. *Peterson* (Ore.), 128 Pac. 837;
Colburn vs. *Wilson* (Idaho), 130 Pac. 381;
Hansen vs. *Kittitas Dist.* (Wash.), 134 Pac. 1083;
Warm Springs Irr. Dist. vs. *Pacific Live Stock Co.* (Ore.), 173 Pac. 265.

Directors not liable for nondelivery of water.

Nisson vs. *Coult*, 96 Cal. App. 611, 274 Pac. 603;
Nisson vs. *Cordua Irr. Dist.*, 204 Cal. 542, 269 Pac. 171.

Directors not liable for negligence.

Hilton vs. *Oliver*, 204 Cal. 545, 269 Pac. 425;
Whiteman vs. *Anderson-Cottonwood Irr. Dist.*, 60 Cal. App. 234, 212 Pac. 706;
Western Assurance Co. vs. *Drainage Dist.*, 72 Cal. App. 76, 237 Pac. 59.

District not liable for negligence of agents and employees.

Whiteman vs. *Anderson-Cottonwood Irr. Dist.*, 60 Cal. App. 234, 212 Pac. 706;
Morrison vs. *Smith Bros.*, 211 Cal. 36, 293 Pac. 53.
(See also 69 A. L. R. 1225.)

Woods vs. *Baxton Creek Irr. Dist.*, 25 Fed. (2d) 296.

Regulation of Seepage

Sec. 15a. The board of directors, when they deem it advisable for the best interests of the district, may regulate the amount of water in use or to be used for the purpose of irrigating crops on lands within the district when the seepage from such irrigation would damage adjacent lands or it may require, as a condition precedent to the delivery of water, the construction of adequate drainage facilities to prevent damage to adjacent lands. The board shall have power to make the necessary rules and regulations to carry out the provisions of this act.[1] (Added, Stats. 1933, p. 1125.)

Woods vs. *Baker Creek Irr. Dist.*, 25 Fed. (2d) 296.

Construction of District Works; Service to Lands of Mutual Water Companies

Sec. 15b. The board of directors of any irrigation district may also construct the necessary dams, reservoirs, and works for the collection of water for said district, and do any and every lawful act necessary to be done, that sufficient water may be furnished in said district for irrigation and domestic purposes, including the delivery of water for fire protection or any other beneficial use, and said board of directors may do and perform any and all acts and make any and all contracts in order to put to any beneficial use any water or waters under the control of the said district, and by contract may acquire, maintain, and operate any needed or desirable equipment to put such water to such beneficial use or uses and to fix and collect reasonable charges therefor; provided, that where, within irrigation districts mutual water companies have been organized to furnish water to certain specified lands within said districts, the board of directors of such districts are hereby authorized and empowered to contract for the delivery of water for such lands as lie within the boundary of said water companies, through said mutual water companies only; provided further, that districts required by law or provisions of agreements under which the water supply of the district, or any part thereof, was acquired, to furnish water outside the boundaries of the district to consumers whose rights to service were, at the time any such supply of water was acquired by the district, enforceable by reason of their status as persons of the class for whose benefit such water was appropriated or dedicated, may, acting by and through its board of directors, regulate the use of water so furnished and fix and collect reasonable rates and charges for such water and the service thereof. The said board is hereby authorized and empowered to take conveyances, leases, contracts or other assurances for all property acquired by it under the provisions of this act, in the name of such irrigation district, to and for the uses and purposes herein expressed, and to institute and maintain any and all actions and proceedings, suits at law or in equity necessary or proper in order to fully carry out the provisions of this act, or to enforce, maintain, protect or preserve any and all rights, privileges and immunities created by this act, or acquired in pursuance thereof. And in all courts, actions, suits or proceedings, the said board may sue, appear and defend in person or by attorneys, and in the name of such irrigation district. (Amended, Stats. 1935, p.1488.)

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[1] Chapter 434, Statutes of 1933, which added section 15a, also contained the following urgency clause:

"Sec. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution of the State of California, and shall go into effect immediately.

The following is a statement of the facts constituting such necessity: In certain irrigation districts at the present time large quantities of water are being held on land for a long period of time for the purpose of raising and maturing crops. Such water seeps and percolates to the adjacent land, forming stagnant pools thereon, which are a menace to health, injuring growing crops and causing the lands to become unfit for cultivation and habitation. This act enables the board of directors of an irrigation district to remedy such conditions and should go into effect immediately."

Right to contract with mutual water company to deliver water to district sustained under Idaho statute.

Pioneer Irr. Dist. vs. *Stone* (Idaho), 130 Pac. 382.

Districts may purchase mutual water company stock.

Lindsay-Strathmore Irr. Dist. vs. *Wutchumna Water Co.*, 64 Cal. App. Dec. 578, 296 Pac. 933.

Crawford vs. *Imperial Irr. Dist.*, 200 Cal. 318, 253 Pac. 726.

Irrigation district assumed duty to serve water in purchase of system from public utility.

Henderson vs. *Oroville-Wyndotte Irr. Dist.*, 207 Cal. 295, 277 Pac. 487;
Henderson vs. *Oroville-Wyndotte Irr. Dist.*, 213 Cal. 514, 2 Pac. (2d) 803;
San Diego vs. *La Mesa, etc. Irr. Dist.*, 109 Cal. App. 280, 292 Pac. 1082.

Rules for Use of Water

Sec. 15c. It shall be the duty of the board of directors of any irrigation district to establish equitable by-laws, rules and regulations for the distribution and use of water among the owners of said lands, which must be printed in convenient form for distribution in the district. Said board shall have power generally to perform all such acts as shall be necessary to fully carry out the purposes of this act. (Added, Stats. 1917, p. 758.)

General and implied powers.

City of Nampa vs. *Nampa etc. Dist.* (Idaho), 131 Pac. 8;
Stevens vs. *Melville* (Utah), 175 Pac. 602–4.

Power to make and enforce rules.

Hamp vs. *State* (Wyo.), 118 Pac. 653, 662;
La Mesa Community Ditch vs. *Appelzoeller* (N. Mex.), 140 Pac. 1051.
(See also Sec. 18 hereof.)

As to right to cut off water because of nonpayment of bills, see note, 28 A. L. R. 472.

Duty of water.

Joerger vs. *Mount Shasta etc. Co.*, 207 Cal. 8, 276 Pac. 1017.

Crawford vs. *Imperial Irr. Dist.*, 200 Cal. 318, 253 Pac. 726;
Nelson vs. *Anderson-Cottonwood Irr. Dist.*, 51 Cal. App. 92, 196 Pac. 292;
San Diego vs. *La Mesa, L. G. & S. V. Irr. Dist.*, 109 Cal. App. 280, 292 Pac. 1082.

Change of Divisions or Election Precincts; Canals and Works May Be Leased

SEC. 15d. The board of directors, when they deem it advisable for the best interests of the district, and the convenience of the electors thereof, may at any time, but not less than sixty days before an election to be held in the district, change the boundaries of the divisions or election precincts of the district or of both; provided, such changes shall be made to keep each division as nearly equal in area and population as may be practicable. Such change of boundaries of the divisions and precincts must be shown on the minutes of the board. The board of directors of any irrigation district now or that may hereafter be organized in the State, shall also have the power, and such board is hereby vested with the authority, to lease the system of canals and works in the district, or any part thereof, whenever such leasing may be for the benefit of the district; provided, that when the directors of any irrigation district contemplate the leasing of the canals and works of such district, they shall give notice of such contemplation by publishing the same in some newspaper published in the county in which such irrigation district lies, at least three weeks prior to the making of any lease, and such lease shall be made to the highest bidder. But such board shall have the right to reject any and all such bids. Such lease shall in no way interfere with any rights that may have been established by law, at the time such lease is made; and, further provided, that the board of directors shall require a good and sufficient bond to secure faithful performance of the lease by the lessees. (Added, Stats. 1917, p. 758.)

Lease or transfer of property.

Byington vs. *Sacramento etc. Co.*, 170 Cal. 124, 148 Pac. 791;
McKim vs. *Imperial Irr. Dist.*, 201 Cal. 110, 255 Pac. 506.

Special Accounts May Be Established from General Fund

SEC. 15e. The board of directors may by resolution establish special accounts from the general fund as may be necessary or convenient in the efficient and economical operation of the district and designate the person or officer to have custody of the several accounts so established and fix bond for the faithful discharge of their several duties, the cost of which bond may be paid by the district. Such special accounts shall severally be supplied from the general fund by warrant as provided by section 54, the same as in payment of any other claim against the district. The person in custody of any of said accounts shall make to the board a verified report in writing between the first and tenth of each month showing the amount of money received by him for said account since the last report and the amount and items of expenditures therefrom; said report shall be filed with the secretary of the board. No payment shall be made from any of said accounts except upon the written order of the person or one of the persons designated for the purpose by the board indicating in said order the purpose for which and the person to whom payment is to be made and with the approval in writing of the person or one of the persons designated for the purpose by the board. (Added, Stats. 1931, p. 1661.)

SEC. 15½. (Renumbered as section 15d by Stats. 1917, p. 758.)

Condemnation Proceedings

SEC. 16. In case of condemnation proceedings the board shall proceed, in the name of the district, under the provisions of Title VII, Part III of the Code of Civil Procedure of the State of California, and all pleadings, proceedings, and process in said title provided shall be applicable to the condemnation proceedings hereunder. (Amended, Stats. 1917, p. 759.)

Condemnation procedure.

Warm Springs Irr. Dist. vs. *Pacific Live Stock Co.* (Ore.), 173 Pac. 265.

Owner estopped to claim subsequent damages for seepage from right of way granted or condemned.

Sternes vs. *Sutter-Butte Canal Co.*, 61 Cal. App. 737, 216 Pac. 66;
Groff vs. *Recl. Dist.*, 97 Cal. App. 22, 274 Pac. 993;
Yolo Power, etc. Co. vs. *Hudson*, 182 Cal. 48, 186 Pac. 772;
Sternes vs. *Sutter-Butte, etc. Co.*, 99 Cal. App. 465, 278 Pac. 921;
Sutro Heights, etc. Co. vs. *Merced Irr. Dist.*, 211 Cal. 670, 296 Pac. 1088;
Edmunds vs. *Glenn-Colusa Irr. Dist.*, 217 Cal. 436, 19 Pac. (2d) 902.

Directors liable for unauthorized trespass—constitutional procedure must be followed.

Newberry vs. *Evans*, 76 Cal. App. 492, 245 Pac. 227; 97 Cal. App. 120, 275 Pac. 465.

Power to condemn canals and water rights of irrigation district for more necessary public use, queried.

Colburn vs. *Wilson* (Idaho), 130 Pac. 381;
Mono Power Co. vs. *Los Angeles*, 284 Fed. 784;
San Diego vs. *Cuyamaca W. Co.*, 209 Cal. 152, 287 Pac. 496;
East Bay Municipal Utility Dist. vs. *Railroad Com.*, 194 Cal. 603, 229 Pac. 949;
Turlock Irr. Dist. vs. *Sierra, etc. Co.*, 69 Cal. App. 150, 230 Pac. 671;
East Bay Municipal Utility Dist. vs. *Lodi*, 120 Cal. App. 70, 8 Pac. (2d) 532.

Districts not liable for seepage damage after delivery of water to lands.

Spurrier vs. *Mitchell Irr. Dist.*, 74 A. L. R. 884;
Middlekamp vs. *Bessmer*, 103 Pac. 208, 23 L. R. A. (N. S.) 801.

Showing of necessity.

Rialto Irr. Dist. vs. *Brandon*, 103 Cal. 384, 37 Pac. 484.

Taking possession before judgment. Const., Art. I, Sec. 14.

Marblehead Land Co. vs. *Superior Court*, 69 Cal. App. 72, 230 Pac. 468.

WATER REGULATIONS

Use of Water a Public Use

SEC. 17. The use of all water required for the irrigation of the lands of any district formed under the provisions of this act, or the act of which this is supplementary or amendatory, and for domestic and other incidental and beneficial uses, within such district,[1] together with the rights of way for canals and ditches,[2] sites for reservoirs, and all other property required in fully carrying out the provisions of this act is hereby declared to be a public use, subject to the regulation and control of the State, in the manner prescribed by law. (Amended, Stats. 1911, p. 512.)

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[1] See Art. XIV, Sec. 1, of the Constitution, declaring use of water a public use. Also, see, "An act regarding irrigation and declaring the same to be a public use," approved May 1, 1911, Stats. 1911, p. 1407.

[2] For power of district to take immediate possession of right of way in eminent domain proceedings, see Art. I, Sec. 14, of the Constitution.

Apportionment of Water; Lease or Sale of Surplus Water

SEC. 18. It is hereby expressly provided that all waters distributed for irrigation purposes shall be apportioned ratably to each landowner upon the basis of the ratio which the last assessment of such owner for district purposes within said district bears to the whole sum assessed upon the district; and any landowner may assign the right to the whole or any portion of the waters so apportioned to him; or the board of directors of said district may, if they deem it for the best interest of the district, enter into a contract for the lease or sale of any surplus water, or the use of such water, not then necessary for use within the said district for any lawful purposes, for use either within or without the district; provided, however, that no right in such or any water owned by the district shall thereby be acquired by user; and provided further, that nothing in this section shall be construed as authorizing the sale of any water right. Provided further, that when any rates of toll and charges for the use of water are fixed by the board of directors, as provided in section 55 of this act, the water for the use of which such rates of toll and charges have been fixed, shall be distributed equitably, as may be provided by the board of directors, among those offering to make the required payment therefor; and provided further, that if an irrigation district has contracted to deliver, and is delivering, water to mutual water companies for distribution to territory served thereby, the water shall be appropriated on such a basis as the board of directors shall find to be just and equitable and for the best interests of all parties concerned. Any lease or contract provided for in this section entered into for a period of more than one year shall not be valid unless approved by the California Districts Securities Commission. (Amended Stats. 1937, p. 109.)

Waterford Irr. Dist. vs. *Modesto Irr. Dist.,* 127 Cal. 544, 16 Pac. (2d) 275.

District can not distribute its water outside of its boundaries.

Jennison vs. *Redfield,* 149 Cal. 500, 87 Pac. 62;

Glenn-Colusa Irr. Dist. vs. *Paulson,* 75 Cal. App. 57, 242 Pac. 494.

Board of Directors vs. *Tregea,* 88 Cal. 334, 26 Pac. 237;
Hewitt vs. *S. J. and P. V. Irr. Dist.,* 124 Cal. 186, 56 Pac. 893;
Merchants, etc. Bank vs. *Escondido Seminary,* 144 Cal. 329, 77 Pac. 937;
Jennison vs. *Redfield, supra;*
Buschmann vs. *Turlock Irr. Dist.,* 47 Cal. App. 321, 190 Pac. 491;
Nelson vs. *Anderson-Cottonwood Irr. Dist.,* 51 Cal. App. 92, 196 Pac. 292;
San Diego vs. *La Mesa L. G. & S. V. Irr. Dist.,* 109 Cal. App. 280, 292 Pac. 1082;
Willard vs. *Glenn-Colusa Irr. Dist.,* 201 Cal. 726, 258 Pac. 959;
Western Union Tel. Co. vs. *Modesto Irr. Dist.,* 149 Cal. 662, 87 Pac. 190.
See also, Sec. 15c hereof.

ELECTIONS AND ORGANIZATION

Election of District Officers

SEC. 19. An election, which shall be known as the general irrigation district election, shall be held in each irrigation district on the first Wednesday in February in each odd-numbered year, at which a successor shall be chosen to each officer whose term will expire in March next thereafter. The person receiving the highest number of votes for each office to be filled at such election shall be elected thereto. The elective officers of an irrigation district shall be as many directors as there are divisions in the district, and an assessor, a collector and a treasurer; provided, that if any two or more offices shall have been consolidated as provided in section 7 or section 27 hereof, only one person shall be elected to fill such consolidated offices. The term of office of each elective officer of an irrigation district shall be four years, except as provided in section 13 of this act and except that the terms of office of the assessor, collector, and treasurer elected at the time of the organization of any district shall expire at the same time as the terms of the directors of the class having the greater number as provided in said section 13, but the expiration of the term of any officer shall not create a vacancy in his office, but he shall hold office until his successor shall have qualified. (Amended, Stats. 1927, p. 187.)

N. P. Ry. Co. vs. *John Day Irr. Dist.* (Ore.), 211 Pac. 781;
Holbrook vs. *Board of Directors,* 93 Cal. Dec. 76, 64 Pac. (2d) 430.

Official Bonds

SEC. 19a. Within twenty days after receiving their certificates of election hereinafter provided for, said officers shall take and subscribe the official oath, and file the same in the office of the board of directors, and execute the bond hereinafter provided for. The assessor shall execute an official bond in the sum of five thousand dollars, and the collector an official bond in the sum of twenty thousand dollars, and the district treasurer an official bond in the sum of one hundred thousand dollars; each of said bonds to be approved by the board of directors; provided, that the board of directors may, if it shall be deemed advisable, fix the bonds of the treasurer and collector, respectively, to suit the conditions of the district, the maximum amount of the treasurer's bond not to exceed one hundred thousand dollars, and the minimum amount thereof not to be less than five thousand dollars; and the maximum amount of the collector's bond not to exceed twenty thousand dollars, and the minimum amount of the collector's bond not to be less than five thousand dollars. Each member of said board of directors shall execute an official bond in the sum of five thousand dollars, which said bonds shall be approved by the judge of the superior court of said county where such organization was effected, and shall be recorded in the office of the county recorder thereof, and filed with the secretary of said board. All official bonds herein provided for shall be in the form prescribed by law for the official bonds of county officers and the premiums thereon may be paid by the district; provided, that in case any district organized under this title is appointed fiscal agent of the United States or by the United States in connection with any Federal reclamation project, each of said officers shall execute a further and additional official bond in such sum as the Secretary of the Interior may require, conditioned for the faithful discharge of the duties of his office and the faithful discharge by the district of its duties as fiscal or other agent of the United States under any such appointment or authorization, and any such bond may be sued upon by the United States or any person injured by the failure of such officer or the district to fully, promptly and completely perform their respective duties. (Amended, Stats. 1933, p. 569.)

Form and condition of official bond.
Political Code, sections 954, 958.

Vacancy created by failure of officer to qualify.
Political Code, section 996, subdivision 9.

Consolidated offices require separate bonds.
Turlock Irr. Dist. vs. *Edwards*, 205 Cal. 320, 270 Pac. 936.

Petition for Special Election

Sec. 19b. If an election is not held as herein provided, then upon the filing of a petition with the secretary of the board of directors of such district, signed by ten per cent of the electors residing within the boundaries of any such irrigation district, requesting that a special election be called for the election of such officers, the directors of such district shall thereupon call a special election thereof for the election of such officers, such election to be held within not less than fifteen, nor more than thirty days after the filing of such petition. The officers elected at such special election shall each take office as soon as they shall have been declared elected and shall have qualified. (Amended, Stats. 1927, p. 187.)

Holbrook vs. *Board of Directors*, 93 Cal. Dec. 76, 64 Pac (2d) 430.

Appointment of Board of Directors and Other Officers

Sec. 19c. Whenever a verified petition, signed by the owners of a majority of the land in an irrigation district shall be filed with the board of supervisors of any county in which such irrigation district or the greater part thereof is situated, showing that no more than five owners of land in the district are residents and electors thereof, and that no general irrigation district election was held in the district at the last date fixed for such election by section 19 of this act, said board of supervisors shall set a date for the hearing of such petition, which date shall be not less than ten days nor more than thirty days from the presentation thereof to said board, and shall give notice of said hearing by publication in at least two issues of a newspaper published in the county in which said board of supervisors has its office. At said hearing, if the facts alleged in said petition be established to the satisfaction of said board of supervisors, said board shall so find by resolution and shall then appoint for said district a board of directors to consist of three owners of land within said district, who need not be residents thereof. The directors so appointed shall take office as soon as they shall have qualified in accordance with the provisions of this act, and shall hold office until their successors are appointed and qualified or until an election is duly called and held as provided for in this act. Upon their organization as a board, they shall fill by appointment the offices of treasurer, collector and assessor, and none of the persons so appointed need be residents or landowners within the district. (Added, Stats. 1929, p. 257.)

Childers vs. *Commr. of Internal Revenue*, 80 Fed. (2d) 27.

Organization of Board

Sec. 20. At noon of the first Tuesday in March next following their election, except as provided in section 14 of this act, the officers who shall have been elected at the preceding general irrigation district election shall enter upon the duties of their respective offices. On the first Tuesday in March next following each election, the directors shall meet and organize as a board, elect a president and appoint a secretary, who shall each hold office during the pleasure of the board. (Amended, Stats. 1917, p. 761.

Holbrook vs. *Board of Directors*, 93 Cal. Dec. 76, 64 Pac (2d) 430.

Notice of Elections; Election Boards

SEC. 21. Fifteen days before any election held under this act, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election, and shall also post a general notice of the same in the office of said board, which shall be established and kept at some fixed place, to be determined by said board, specifying the polling places of each precinct. Prior to the time for posting the notices, the board must appoint for each precinct, from the electors thereof, one inspector, two judges and two clerks, or at their option, one inspector, one judge and one clerk, who shall in either case constitute a board of election for such precinct. If the board fail to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the precinct present at that hour, may appoint the board, or supply the place of an absent member thereof. The board of directors must, in its order appointing the board of election, designate the house or place within the precinct where the election must be held. (Amended, Stats. 1921, p. 860.)

Election may be held on a holiday.

People vs. *Loyalton,* 147 Cal. 774, 82 Pac. 434.

Conduct of Election

SEC. 22. The inspector is chairman of the election board and may administer all oaths required in the process of an election; and appoint judges and clerks, if, during the progress of the election, any judge or clerk ceases to act. Any member of the board of election may administer and certify oaths required to be administered during the progress of an election. Before opening the polls, each member of the board must take and subscribe an oath to faithfully perform the duties imposed upon them by law. Any electors of the precinct may administer and certify such oath. The polls must be opened at six a.m. on the morning of the election, and be kept open until seven p.m., when the same must be closed; provided, however, the board of directors may in the notice of election as provided in section 21 of this act fix different hours for the opening and closing of the polls, provided that the polls shall be kept open for not less than six consecutive hours between the hours of six a.m. and seven p.m. (Amended Stats. 1937, p. 1410.)

Opening and closing polls.

Board of Directors vs. *Abila,* 106 Cal. 365, 39 Pac. 793.

Ballots; Manner of Voting

SEC. 22a. The ballot used at the election shall be provided by the board of directors, and one of the clerks of election shall deliver, to each of the electors, one of the ballots so provided. The ballots shall have printed on them the names of all candidates whose names have been filed as provided in this act, with a voting square behind each name. The names shall be arranged in groups, alphabetically, under the designation of the office for which each person named is a candidate. Where more than one person is to be elected for an office of the same title, the words "Vote for ——— (inserting the proper number)" shall be printed under the title of the office. Each elector shall stamp a cross, with a rubber stamp to be provided by the board of directors, in the square behind the name of each candidate he wishes to vote for. (Added, Stats. 1909, p. 1062.)

Form of ballot.

Political Code, section 1197, subdivision 8;
Edes vs. *Haley* (Wash.), 162 Pac. 50.

Nominating Petitions

Sec. 22b. Not less than fifteen days before the election, any ten or more electors in the district may file with the board of directors a petition, requesting that certain persons, specified in such petition, be placed on the ballot as candidates for the office named in the petition. The names proposed by the various petitions so filed, and no others, shall be printed on the ballots, but there shall be sufficient blank spaces left in which electors may write other names if they so desire. The petitions shall be preserved in the office of the secretary of the district. (Amended, Stats. 1927, p. 187.)

Voting and Counting of Votes

Sec. 23. Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain open, and shall be conducted, as nearly as practicable, in accordance with the provisions of the general election laws of this State. As soon as all the votes are counted, a certificate shall be drawn upon each of the papers containing the poll lists and tallies, or attached thereto, stating the number of votes each one voted for has received, and designating the office to fill which he was voted for, which number shall be written in figures and in words at full length. Each certificate shall be signed by the clerk, judge and the inspector. One of said certificates, with the poll list and the tally paper to which it is attached, shall be retained by the inspector, and preserved by him at least six months. The ballots shall be strung upon a cord or thread by the inspector, during the counting thereof, in the order in which they are entered upon the tally list by the clerks; and said ballots together with the other of said certificates, with the poll list and tally paper to which it is attached, shall be sealed by the inspector in the presence of the judges and clerks, and indorsed "Election returns of (naming the precinct) precinct," and be directed to the secretary of the board of directors, and shall be immediately delivered by the inspector, or by some other safe and responsible carrier designated by said inspector, to said secretary, and the ballots shall be kept unopened for at least six months; and if any person be of the opinion that the vote of any precinct has not been correctly counted, he may appear on the day appointed for the board of directors to open and canvass the returns, and demand a recount of the vote of the precinct that is so claimed to have been incorrectly counted.

Right of contest of election of officers elected at irrigation district election.

Hertle vs. *Ball* (Idaho), 72 Pac. 953;
(See also Sec. 72, *infra.*);
Huck vs. *Rathjen,* 66 Cal. App. 84, 225 Pac. 33;
Barry vs. *Board of Directors,* 7 Cal. App. (2d) 412, 46 Pac. (2d) 298

Canvass of Votes

Sec. 24. No list, tally paper, or certificate returned from any election, shall be set aside or rejected for want of form, if it can be satisfactorily understood. The board of directors must meet at its usual place of meeting on the first Monday after each election to canvass the returns. If, at the time of meeting, the returns from each precinct in the district in which the polls were opened have been received, the board of directors must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from day to day until all the returns have been received, or until six postponements have been had. The canvass must be made in public and by opening the returns and estimating the vote of the district for each person voted for, and declaring the result thereof.

Canvassing returns and declaring result.

Board of Directors vs. *Abila,* 106 Cal. 365, 39 Pac. 793;
Edes vs. *Haley* (Wash.), 162 Pac. 50.

Record of Results; Filling of Vacancies

SEC. 25. The secretary of the board of directors must, as soon as the result is declared, enter in the records of such board a statement of such result, which statement must show: (a) The whole number of votes cast in the district, and in each division of the district; (b) the names of the persons voted for; (c) the office to fill which each person was voted for; (d) the number of votes given in each precinct to each of such persons; (e) the number of votes given in each division for the office of director, and the number of votes given in the district for the offices of assessor, collector, and treasurer. The board of directors must declare elected the persons having the highest number of votes given for each office. The secretary must immediately make out and deliver to such person a certificate of election, signed by him, and authenticated with the seal of the board.

In case of a vacancy in the office of assessor, collector, or treasurer, the vacancy shall be filled by appointment of the board of directors; provided, that if said board of directors shall neglect or refuse to make such appointment within a period of forty days, then the board of supervisors of the county wherein the office of said board of directors is situated shall make such appointment. In case of a vacancy in the office of director, the vacancy shall be filled by appointment by the board of supervisors of the county where the office of such board of directors is situated, from the division in which the vacancy occurred. An appointment to fill a vacancy as above provided shall be for the unexpired term of the office in which the vacancy existed. (Amended, Stats. 1927, p. 188.)

Quinton vs. *Equitable Investment Co.*, 196 Fed. 314;
Drescher vs. *Board of Sup'rs,* 191 Cal. 234, 215 Pac. 902.

Qualification of Director

SEC. 26. A director shall be a qualified elector and a freeholder of the irrigation district and a resident of the division which he is elected to represent. (Amended Stats. 1935, p. 407.)

The acts of an officer, though not qualified for want of residence within the district, will be regarded as valid acts of an officer *de facto.*

Baxter vs. *Vineland Irr. Dist.,* 136 Cal. 185, 68 Pac. 601;
Oakland Paving Co. vs. *Donovan,* 19 Cal. App. 488, 126 Pac. 388;
Clark vs. *Manhattan Beach,* 175 Cal. 637, 166 Pac. 806.

Right to office can not be questioned collaterally.

In re Danford, 157 Cal. 425, 108 Pac. 322;
People vs. *Ellsus,* 58 Cal. App. 396, 211 Pac. 34;
Baxter vs. *Dickinson,* 136 Cal. 185, 68 Pac. 601, 21 Cal. Jur. 1014.

As to whether candidate must be eligible at time of election, see

Bergevin vs. *Curtz,* 127 Cal. 86, 59 Pac. 312;
Ward vs. *Crowell,* 142 Cal. 587, 76 Pac. 491.

Consolidation of Offices

SEC. 27. The board of directors may, in its discretion, consolidate any two or more of the offices of assessor, collector, and treasurer. The order of consolidation must be made at least thirty days prior to general election of the district, and shall take effect at the next succeeding election; provided, that the board of directors may, at least thirty days before a general election of the district, where the offices have been consolidated, segregate the same, each office to be filled at such election.

Liability of consolidated offices separate.
Turlock Irr. Dist. vs. *Edwards,* 205 Cal. 320, 270 Pac. 936.

Appointment of Deputies by Treasurer

SEC. 27a. The treasurer and collector of any irrigation district may appoint as many deputies as may be necessary for the prompt and faithful discharge of the duties of his office, said deputies to hold office at the pleasure of the appointing power. Such appointment must be in writing and filed in the office of the board of directors. Every such deputy shall take and file an oath in the manner required of his principal before assuming the duties of his office. (Added, Stats. 1923, p. 632.)

See ante, p. 27, Pol. Code, Sec. 4024.
Deputy must be reappointed upon reelection of his principal.
See Hubert vs. *Mendheim,* 64 Cal. 221.

Deposit of Moneys

SEC. 27b. Notwithstanding the provisions of any other law relating to the deposit of public money, any money belonging to an irrigation district organized or existing under this act may be deposited by the treasurer or any officer of such district having legal custody of such money in any State or national bank or banks in this State, and such bank or banks are authorized to accept such deposits and to give security for the same as herein provided, and said district shall receive such rate of interest therefor as may be agreed upon by the officer making such deposit and said bank or banks. Such treasurer or other officer shall require such bank or banks in which such money is deposited to furnish as security for such deposits, bonds of the United States, or of this State or of any county, municipality, school district, metropolitan water district, or irrigation district within this State that are legal investments for savings banks of this State, the market value of which bonds shall at all times be at least ten per cent in excess of the amount of the deposits secured thereby; or in lieu of such bonds such treasurer or said other officers shall be entitled to take as security for such funds so deposited, depositary bonds duly executed and delivered by a surety company duly authorized to do business in the State of California, which depositary bonds shall be and remain in an amount not less than the amount of the funds so deposited and held in said bank or banks. The cost of such depositary bond or bonds may be borne by the district. Such treasurer or said other officers shall not be responsible for any loss of public moneys resulting from the deposit thereof in banks when made in accordance with the provisions of this section but such treasurer shall be chargeable with the safe-keeping, management and disbursement of the bonds deposited with him as security for the deposits of such moneys, and the respective irrigation district shall be responsible for the custody and safe return of any bonds so deposited.[1] (Amended, Stats. 1933, p. 328.)

General act for securing public moneys does not apply to irrigation districts.
Wood vs. *Imperial Irr. Dist.*, 216 Cal. 748, 17 Pac. (2d) 128;

But see section 16½ of Article XI of the California Constitution, as amended November 8, 1932; and also see Chapter 189, Statutes of 1933.

For other cases, see:
Perry vs. *Otay*, 127 Cal. 569, 60 Pac. 40;
McGuire vs. *Wentworth*, 120 Cal. App. 340, 7 Pac. (2d) 729;
Buena Vista Dist. vs. *Shields*, 126 Cal. App. 241, 14 Pac. (2d) 559;
In re Farmers and Merchants Bank, 213 Cal. 33, 1 Pac. (2d) 422;
Bank of Oakley vs. *Rainey*, 131 Cal. App. 203, 21 Pac. (2d) 164.

Directors, Election for Changing Number Of

SEC. 28. In any district the board of directors thereof must, if a petition therefor signed by a majority of the holders of title or evidence of title to the lands within said district representing a majority in value of said lands shall have been filed in the office of the board at least seventy days before the next ensuing general irrigation district election, make an order that the number of directors in said district shall be changed to three or five, or that the directors shall be elected by the district at large or by divisions, or that both the number of directors and the method of their election shall be thus changed, as may be requested in said petition; or, the board of directors on its own initiative, by resolution adopted not less than fifty days before the next ensuing general irrigation district election, may, and said board must, if a petition therefor signed by at least five hundred holders of title or evidence of title to lands within said district representing at least twenty per cent in value of the lands within said district shall have been filed in the office of the board at least seventy days before the next ensuing general irrigation district election, submit to the qualified electors of the district at said election the question whether the number of directors in said district shall be changed to three or five, or whether the directors shall be elected by the district at large or by divisions, or whether both the number of directors and the method of their election shall be thus changed. If upon the submission of said question at an election as aforesaid, a majority of the electors voting thereon in said district and a majority of the electors voting thereon in each division of a majority of the divisions within said district shall approve the change, or changes, proposed in the proposition submitted, the board of directors shall make an order in accordance with such approval. If an order made by the board of directors as in this section provided shall require a change in the method of electing directors, all directors thereafter elected in said district shall be elected by divisions or by the district at large as may be provided in said order. If such an order shall require a change in the number of directors, the board of directors shall forthwith redivide said district into the number of divisions corresponding to the number of directors specified in said order, and the terms of office of all the directors of the district shall expire on the first Tuesday in March following the next general irrigation district election, and at said election the number of directors designated in said order shall be elected and shall enter upon the duties of their office on the first Tuesday in March next following their election, and shall classify themselves and determine the length of their respective terms in the manner provided in this act in the case of directors elected upon the organization of a district. The provisions of section 1 of this act regarding evidence of the genuineness of signatures and place of residence of petitioners shall apply to the petitions provided for in this section. If a question is submitted to the electors of a district as in this section provided, it shall be stated on the ballot, and the method of voting thereon shall be, as nearly as practicable in conformity with the provisions of section 30e of this act, and the notice of election shall contain a statement showing what change or changes are proposed in the question thus to be submitted. (Amended, Stats. 1923, p. 83.)

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[1] See *ante*, p. 54, "Deposit of Funds and Security therefore."

Abbey vs. *Board of Directors*, 58 Cal. App. 757, 225 Pac. 33.

Recall of Officers

SEC. 28½.[1] The holder of any elective office of any irrigation district may be removed or recalled at any time by the electors; provided, he has held his office at least six months. The provisions of this section are intended to apply to officials now in office, as well as to those hereafter elected. The procedure to effect such removal or recall shall be as follows: A petition demanding the election of a successor to the person sought to be removed shall be filed with the secretary of the board of directors of such district, which petition shall be signed by registered voters equal in number to at least twenty-five per cent of the highest vote cast within such district for candidates for the office, the incumbent of which is sought to be removed, at the last general election in such district at which an incumbent of such office was elected, or, in the case of the removal of the incumbent of an office elected by a subdivision of such district, such petition shall be signed by a like percentage of qualified electors of such subdivision computed upon the total number of votes cast in such subdivision for all candidates for the office, the incumbent of which is sought to be removed, at the last general election in such subdivision at which an incumbent of such office was elected; and said petition shall contain a statement of the grounds on which the removal or recall is sought, which statement is intended solely for the information of the electors. Any insufficiency of form or substance in such statement shall in nowise affect the validity of the election and proceedings held thereunder. The signatures to the petition need not all be appended to one paper. Each signer shall add to his signature his place of residence, giving the precinct, and if within a town having named streets and numbered houses, street and number. Each such separate paper shall have attached thereto an affidavit made by an elector of the district and sworn to before an officer competent to administer oaths, stating that the affiant circulated that particular paper and saw written the signatures appended thereto; and that according to the best information and belief of the affiant, each is the genuine signature of the person whose name purports to be thereunto subscribed and of a qualified elector of the district. Within ten days from the date of filing such petition, the secretary of the board shall examine and from the records of registration ascertain whether or not said petition is signed by the requisite number of qualified electors, and he shall attach to said petition his certificate showing the result of said examination. If by the said certificate the petition is shown to be insufficient, it may be supplemented within ten days from the date of such certificate, by the filing of additional papers, duplicates of the original petition except as to the names signed. The secretary shall, within ten days after such supplementing papers are filed, make like examination of a supplementing petition, and if a certificate shall show that all the names to such petition, including the supplemental papers, are still insufficient, no action shall be taken thereon; but the petition shall remain on file as a public record; and the failure to secure sufficient names shall be without prejudice to the filing later of an entirely new petition to the same effect. If the petition shall be found to be sufficient, the secretary shall submit the same to the board of directors without delay, whereupon the board shall forthwith cause a special election to be held within not less than thirty-five nor more than forty days after the date of the order calling such election, to determine whether the voters will recall such officer; provided, that if a general election is to occur within sixty days from the date of the order calling for such election, the board may in its discretion postpone the holding of such election to such general election or submit such recall election at any such general election for officers of such district occurring not less than thirty-five days after such order. If a vacancy occur in said office after a recall petition is filed, the election shall nevertheless proceed as in this section provided. One petition is sufficient to propose a removal and election of one or more elective officials. One election is competent for the removal and election of one or more elective officials. Nominations for any office under such recall election shall be made in the manner prescribed by section 22b of this act.

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[1] Removal for cause, see section 73, *infra.*

There shall be printed on the recall ballot, as to every officer whose recall to be voted on thereat, the following question: "Shall (name of person against whom the recall petition is filed) be recalled from the office of (title of the office)?" following which question shall be the words "Yes" and "No" on separate lines, with a blank space at the right of each, in which the voter shall indicate, by stamping a cross (+) his vote for or against such recall. On such ballots, under each such question, there shall also be printed the names of those persons who have been nominated as candidates to succeed the person recalled, in case he shall be removed from office by said recall election; but no vote shall be counted for any candidate for said office unless the voter also voted on said question of the recall of the person sought to be recalled from said office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office. If a majority of those voting on said question of the recall of any incumbent from office shall vote "No," said incumbent shall continue in said office. If a majority shall vote "Yes," said incumbent shall thereupon be deemed removed from such office, upon the qualification of his successor. The election shall be conducted, canvass of all votes for candidates for said office shall be made and the result declared in like manner as in a regular election within such district. If the vote at any such recall election shall recall the officer, then the candidate who has received the highest number of votes for the office shall be thereby declared elected for the remainder of the term. In case the person who received the highest number of votes shall fail to qualify within ten days after receiving the certificate of election, the office shall be deemed vacant and shall be filled according to law. If the vote at any such recall election shall not recall the officer, no further petition for the recall of such officer shall be filed before the expiration of six months from the date of such first recall election. (Added, Stats. 1911, Extra Session, p. 135.)

This section is constitutional.

Wigley vs. *San Joaquin Irr. Dist.*, 31 Cal. App. 162, 159 Pac. 985; (Sec. 1083, Pol. Code, must be read with this section.)
Chambers vs. *Glenn-Colusa Irr. Dist.*, 57 Cal. App. 155, 206 Pac. 773;
Abbey vs. *Board of Directors*, 58 Cal. App. 757, 209 Pac. 709;
Morrow vs. *Board of Directors*, 219 Cal. 246, 26 Pac. (2d) 292;
Box vs. *Young*, 219 Cal. 243, 26 Pac. (2d) 290.

TITLE TO PROPERTY

Vesting and Disposition of Property

Sec. 29. The legal title to all property acquired under the provisions of this act shall immediately and by operation of law vest in such irrigation district and shall be held by such district in trust for and is hereby dedicated and set apart to the uses and purposes set forth in this act. The board of directors of said district is hereby authorized and empowered on behalf of the district to hold, use, acquire, manage, occupy, possess, sell or lease said property as herein provided.

The board of directors of said district may determine by resolution duly entered upon their minutes that any property, real or personal, held by said irrigation district is no longer necessary to be retained for the uses and purposes thereof and may thereafter sell or lease such property upon such terms and conditions as may appear to said board to be for the best interest of the said district. All conveyances or leases shall be executed by the secretary and president of said district on behalf of said district and in accordance with a resolution of the board of directors previously passed and adopted and must be for a valuable consideration.

Whenever it appears to the board of directors that any particular parcel of real property held by the district may be leased for the purpose of developing, taking, removing or extracting therefrom minerals. oil, gas or other hydrocarbons, without interfering with the use of said real property for the purpose for which it is dedicated, the board of directors shall pass a resolution, duly entered upon their minutes, that such real property may be so leased and may thereafter lease such real property for the purpose or purposes specified in said resolution, upon such terms as the board shall deem most beneficial to the district. (Amended, Stats. 1935, p. 463.)

Hewitt vs. *S. J. and P. V. Irr. Dist.*, 124 Cal. 186, 56 Pac. 893;
Merchants Bank vs. *Escondido Seminary*, 144 Cal. 329, 77 Pac. 937;
Jennison vs. *Redfield*, 149 Cal. 500, 87 Pac. 62;
Tulare Irr. Dist. vs. *Collins*, 154 Cal. 440, 97 Pac. 1124;
Lindsay-Strathmore Irr. Dist. vs. *Wutchumna W. Co.*, 111 Cal. App. 688, 707, 296 Pac. 933, 942.

Irrigation district property exempt from taxation.

Turlock Irr. Dist. vs. *White*, 186 Cal. 183, 198 Pac. 1060;
San Francisco vs. *McGovern*, 28 Cal. App. 491, 152 Pac. 980;
State Land etc. Board vs. *Henderson*, 197 Cal. 470, 241 Pac. 560.

Attention is also called to Sec. 1158, Civil Code, which provides, "that deeds or grants conveying to a political corporation or governmental agency real estate or any interest therein or easements thereon, for public purposes shall not be accepted for recordation without the consent of the grantee, evidenced by its resolution of acceptance attached to such deed or grant."

See *Los Angeles H. S. Dist.* vs. *Quinn,* 195 Cal. 377, 234 Pac. 313, re acceptance required of high school district.

Priorities as between tax deeds of counties, cities, and governmental agencies.

La Mesa etc. Irr. Dist. vs. *Hornbeck,* 216 Cal. 730, 17 Pac. (2d) 143;
Palo Verde Irr. Dist. vs. *Jamison,* 216 Cal. 740, 17 Pac. (2d) 147.

ISSUANCE OF BONDS

Estimate of Money Needed for Improvements

Sec. 30. For the purpose of constructing or purchasing necessary irrigation canals and works, and acquiring the necessary property and rights therefor, and for the purpose of acquiring waters, water rights, reservoirs, reservoir sites, and other property necessary for the purposes of said district, and otherwise carrying out the provisions of this act, or any other act under which said district is or may be authorized to acquire property or construct works, the board of directors of any such district must, as soon after such district has been organized as may be practicable, and also whenever thereafter the board of directors shall find that the construction fund raised by the last previous bond issue is insufficient, or that the construction fund has been exhausted by expenditures herein authorized therefrom and it is necessary to raise additional money for said purposes, estimate and determine the amount of money necessary to be raised. For the purpose of ascertaining the amount of money necessary to be raised for such purposes, or any of them, said board shall cause such surveys, examinations, drawings and plans to be made as shall furnish the proper basis for said estimate. Said surveys, examinations, drawings and plans, and the estimate based thereon may provide that the works necessary for a completed project shall be constructed progressively during a period of years. In the estimate of the amount of money necessary to be raised by any issue of bonds in any district, the board of directors may include a sum sufficient to pay the interest on all of such bonds for three years or less. All such surveys, examinations, drawings and plans shall be made under the direction of a competent irrigation engineer and shall be certified by him. (Amended, Stats. 1931, p. 1661.)

Purposes for which bonds may be issued.

Hughson vs. *Crane,* 115 Cal. 404, 47 Pac. 120;
Stimson vs. *Alessandro Dist.* 135 Cal. 389, 67 Pac. 496, 1034;
Leeman vs. *Perris Irr. Dist.,* 140 Cal. 540, 74 Pac. 24;
Hooker vs. *East Riverside Dist.,* 38 Cal. App. 615, 177 Pac. 184;
Stowell vs. *Rialto Irr. Dist.,* 155 Cal. 215, 100 Pac. 248;
Nev.-Cal. Elec. Sec. Co. vs. *Imperial Irr. Dist.,* 85 Fed. (2d) 886:
In re Imperial Irr. Dist., 10 Fed. Supp. 832.
(See Sec. 61b, *infra.*)

Plans and estimate.

Board of Directors vs. *Tregea,* 88 Cal. 334, 26 Pac. 237;
Cullen vs. *Glendora Water Co.,* 113 Cal. 503, 39 Pac. 769, 45 Pac. 822, 1047;
Hughson vs. *Crane,* 115 Cal. 404, 147 Pac. 120;
Hanson vs. *Kittitas Dist.* (Wash.), 134 Pac. 1983;
Board of Directors vs. *Scott* (Wash.), 140 Pac. 391.

Buschmann vs. *Turlock Irr. Dist.,* 47 Cal. App. 321, 190 Pac. 491;
Tormey vs. *Anderson-Cottonwood Irr. Dist.,* 53 Cal. App. 559, 200 Pac. 814;
Ser-Vis vs. *Victor Valley Irr. Dist.,* 190 Cal. 732, 214 Pac. 233;
Wores vs. *Imperial Irr. Dist. et al.,* 193 Cal. 609, 277 Pac. 181;
La Mesa, Lemon Grove & Spring Valley Irr. Dist. vs. *Halley,* 197 Cal. 50, 239 Pac. 719;
Bottoms vs. *Madera Irr. Dist.,* 74 Cal. App. 681, 242 Pac. 100;
Woods vs. *Baxter Creek Irr. Dist.,* 25 Fed. (2d) 296.

Plan on which bonds were voted may be changed.

El Dorado Irr. Dist. vs. *Browne,* 216 Cal. 269, 13 Pac. (2d) 921.

Electors of an irrigation district have no constitutional right to vote on bond issues.

El Dorado Irr. Dist. vs. *Brown, supra.*

Bonds constitute a contract between bondholders and taxpayers.

San Diego vs. *Childs,* 217 Cal. 109, 17 Pac. (2d) 734;
Rohwer vs. *Gibson,* 126 Cal. App. 707, 14 Pac. (2d) 1051;
Hershey vs. *Cole,* 130 Cal. App. 683, 20 Pac. (2d) 972.

Report Submitted to California District Securities Commission

SEC. 30a. The board of directors shall then submit a copy of the said estimate and the said engineer's report to the commission authorized by law to approve bonds of irrigation districts for certification as legal investments for savings banks and for the other purposes specified in the act creating said commission. Said commission shall forthwith examine said report and any data in its possession or in the possession of said district and shall make such additional surveys and examinations as it may deem proper or practicable, and as soon as practicable thereafter shall make to the board of directors of said district a report which shall contain such matters as, in the judgment of the said commission, may be desirable; provided, that it may state generally the conclusions of said commission regarding the supply of water available for the project, the nature of the soil proposed to be irrigated as to its fertility and susceptibility to irrigation, the probable amount of water needed for its irrigation and the probable need of drainage, the cost of works, water rights and other property necessary for a complete and satisfactory project, the proper dates of maturity for the bonds proposed to be issued and whether in its opinion it is advisable to proceed with the proposed bond issue. If the estimate of the amount of said bond issue shall have included any amount for the payment of interest on the bonds of such issue, as provided in section 30 of this act, it shall be lawful for the board of directors, if the issuance of such bonds is thereafter authorized by vote of the electors of the district, to use for the payment of interest on any bonds of such issue so much of the proceeds of the sale of said bonds as may have been approved for that purpose in said report of the commission. (Amended, Stats. 1931, p. 2270).

El Dorado Irr. Dist. vs. *Browne,* 216 Cal. 269, 13 Pac. (2d) 921;
Buschmann vs. *Turlock Irr. Dist.,* 47 Cal. App. 321, 190 Pac. 491;
Bottoms vs. *Madera Irr. Dist.,* 74 Cal. App. 681, 242 Pac. 100;
Nev.-Cal. Elec. Sec. Co. vs. *Imperial Irr. Dist.,* 85 Fed. (2d) 886.

Order Determining Amount of Bonds

SEC. 30b. If after such examination and investigation the said commission shall deem it advisable that the said plans be modified or that the amount of the bonds proposed to be issued be changed, or that certain conditions should be prescribed to insure the success of the project, or that in its opinion it is not advisable to proceed with the proposed bond issue, it shall so state in its report to the board of directors. After receiving said report, or if no report is received within ninety days after the submission of said estimate and engineer's report to said commission, said board of directors, if it shall determine and shall declare by resolution that the proposed plan of works or some modified plan recommended by said commission is satisfactory and that the said project or said modified plan is feasible, shall make an order determining the amount of bonds that should be issued in order to raise the money necessary therefor, and in determining said amount sufficient shall be included to cover the estimated cost of inspection of works in course of construction, as provided for by law; provided, that if any district shall issue bonds to carry out any plans approved by said commission as herein provided it shall be unlawful for said district to make any material change in said plans thereafter without the consent of said commission. (Amended, Stats. 1921, p. 1108.)

El Dorado Irr. Dist. vs. *Browne*, 216 Cal. 269, 12 Pac. (2d) 921; *Nev.-Cal. Secur. Co.* vs. *Imperial Irr. Dist.*, 85 Fed. (2d) 886.

Special Bond Election

Sec. 30c. After the making of the order specified in section 30b of this act said board of directors may call a special election, at which shall be submitted to the electors of such district possessing qualifications prescribed by this act, the question whether or not the bonds of said district in the amount determined in said order of said board shall be issued, and said board must call such an election and submit said question upon receipt of a petition signed by a majority of the holders of title or evidence of title to lands within the district, representing, also, a majority in value of said lands, or by at least five hundred petitioners, each petitioner to the number of at least five hundred to be an elector residing within the district or a holder of title or evidence of title to lands therein, provided that said petitioners shall include the holders of title or evidence of title to not less than twenty per cent in value of said lands. In determining the value of any lands within an irrigation district and the holders of title or evidence of title to such lands for the purpose of determining the sufficiency of any petition required by this act after the organization of the district, the assessment roll of the district last equalized at the time of the presentation of such petition shall be conclusive evidence, but if no assessment roll of the district has theretofore been equalized, then the county assessment roll of the county within which any lands within the district is situated, which county assessment roll has been last equalized at the time of the presentation of such petition, shall be conclusive evidence of such facts for such land. (Amended, Stats. 1919, p. 664.)

Who may sign petition.

In re Bonds of So. San Joaquin Irr. Dist., 161 Cal. 345, 119 Pac. 198.

Election.

Board of Directors vs. *Abila*, 106 Cal. 365, 39 Pac. 793.

Buschmann vs. *Turlock Irr. Dist.*, 47 Cal. App. 321, 190 Pac. 491; *Nev.-Cal. Elec. Secur. Co.* vs. *Imperial Irr. Dist.*, 85 Fed. (2d) 886.

Notice of Election

Sec. 30d. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks. Such notices must specify the time of holding the election, the amount of bonds proposed to be issued; and said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; provided, that no informalities in conducting such an election shall invalidate the same if the election shall have been otherwise fairly conducted. (Added, Stats. 1917, p. 763.)

Nev.-Cal. Elec. Secur. Co. vs. *Imperial Irr. Dist.*, 85 Fed. (2d) 886.

Ballots and Vote Required

Sec. 30e. At said election questions as to the issuance of bonds may be submitted separately on the same ballot if estimates of the cost of the respective projects have been made and the Irrigation District Bond Commission has reported thereon and the respective propositions have been stated in the notices of the election. At such election the ballots shall contain a general statement of the proposition or propositions to be voted on, including the amount of bonds proposed to be issued for each purpose, but no informality in such statement shall vitiate the election. Each proposition shall be followed by the words "Yes" and "No," on separate lines, with a small inclosed space after each of said words. The electors shall vote for or against any proposition by stamping a cross (+) in the voting space after the word "Yes" or "No" respectively. On the ballot shall be printed the following under the heading "Instructions to voters": "To vote for a proposition, stamp a cross (+) in the voting space after the word 'Yes' following the proposition. To vote against a proposition, stamp a cross (+) in the voting space after the word 'No' following the proposition." If two-thirds of the votes cast for and against any proposition are for "Yes," the board of directors shall cause bonds in the amount specified in such proposition to be issued; provided, that if said election shall have been called after the presentation of a petition therefor as provided in section 30c of this act, the board of directors shall cause bonds in the amount specified in any proposition to be issued if a majority of the votes cast for and against said proposition are for "Yes." If the number of votes for any proposition is less than the number required herein to authorize the issuance of the bonds provided for therein, the result of the vote on said proposition shall be entered of record, but said proposition may be again submitted to the electors of the district at a special election upon the presentation to the board of directors of a petition therefor signed as provided in section 30c of this act. (Amended, Stats. 1919, p. 664.)

Sec. 18 of Art. XI of the State Constitution inapplicable.

In re Madera Irr. Dist., 92 Cal. 296, 28 Pac. 272, 675;
Bliss vs. *Hamilton,* 171 Cal. 123, 152 Pac. 303;
Nev.-Cal. Elec. Secur. Co. vs. *Imperial Irr. Dist.,* 85 Fed. (2d) 886

Form and Denomination of Bonds

Sec. 31. Subject to the provisions of this act, the board of directors shall prescribe the form of the bonds issued by the district and of the interest coupons to be attached thereto. An issue of bonds is hereby defined to be all the bonds issued in accordance with a proposal approved by the electors of the district. Each issue of the bonds of a district shall be numbered consecutively as authorized, and the bonds of each issue shall be numbered consecutively. The board of directors shall fix the date of said bonds, or may divide any issue into two or more divisions and fix different dates for the bonds of each respective division. The date of any bond must be subsequent to the election at which its issuance was authorized and prior to its delivery to a purchaser from the district. The date of issue of any bond authorized under this act or heretofore or hereafter issued in pursuance of this act shall be deemed to be the apparent date of the said bond appearing on the face thereof. Each shall be signed by the president and secretary of the board of directors of the district, who may be in office at the date of said bond or at any time thereafter prior to the delivery of said bond to the purchaser thereof from the district, and the seal of the district shall be impressed on each bond. The interest coupons shall also bear the signature of the secretary of the board of directors who may be in office at the date of said bond or at any time thereafter prior to the delivery of said bond to the purchaser thereof from the district, or a facsimile of such signature. The board of directors shall fix the denominations of said bonds, which shall not be less than one hundred dollars nor more than one thousand dollars. Said bonds shall bear interest at a rate to be fixed by the board of directors, but the rate shall not exceed six per centum per annum. The interest shall be payable on the first day of January and the first day of July of each year. The board of directors shall also designate the place or places at which said bonds or any of them and the interest thereon shall be payable.[1] Said bonds shall be payable in gold coin of the United States. Bonds shall be made payable on the first day of January or the first day of July of the years designated by the board of directors but in no case shall the maturity of any bond be more than fifty years from the date thereof. Each bond shall be made payable at a given time for its full face value and not for a percentage thereof. The board of directors may, with the approval of the California Bond Certification Commission, provide for the call and redemption of any of said bonds in numerical order, or by lot, on any interest payment date prior to their fixed maturity, at not exceeding the par value thereof and accrued interest, in which event a statement to that effect shall be set forth in the face of the bond. Notice of such redemption shall be published once a week for three successive weeks in a newspaper of general circulation printed and published within the county in which the office of the district is located, the first publication of which shall be at least thirty days prior to the date fixed for such redemption. After the date fixed for such redemption, if the district shall have provided funds available for the payment of the principal and interest of the bonds so called, interest on said bonds thereafter shall cease.[2] (Amended, Stats. 1931, p. 777.)

Date of maturity of bonds and time of payment of interest.
Central Irr. Dist. vs. *DeLappe*, 79 Cal. 351, 21 Pac. 825;
Stowell vs. *Rialto Irr. Dist.*, 155 Cal. 215, 100 Pac. 248;
Board of Directors vs. *Peterson* (Ore.), 128 Pac. 837.

Date of issue, signature of secretary, etc.
Wright vs. *East Riverside District*, 138 Fed. 313;
Hooker vs. *East Riverside District*, 38 Cal. App. 615, 177 Pac. 184.

Negotiability of bonds.
Farwell vs. *S. J. and P. V. Irr. Dist.*, 49 Cal. App. 167, 192 Pac. 1034.

Redemption of bonds.
(See section 52, *infra.*)

Taxpayer's suit.
Sechrist vs. *Rialto Irr. Dist.*, 129 Cal. 640, 62 Pac. 261;
Henry vs. *Vineland Irr. Dist.*, 140 Cal. 376, 73 Pac. 1061.
(See also section 69, *infra.*)

Validity of bonds in hands of bona fide holders.
Stimson vs. *Alessandro Dist.*, 135 Cal. 389, 67 Pac. 496;
Baxter vs. *Vineland Dist.*, 136 Cal. 185, 68 Pac. 601;
Haese vs. *Heitzeg*, 159 Cal. 569, 114 Pac. 816;

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[1] Art. XI, Sec. 13½, of the Constitution, authorizes the payment of bonds and interest in any place within or outside of the United States.

[2] Stats. 1931, Chap. 318, p. 777, amending sections 31 and 32a and adding sections 32b, 32c, 32d and 32e contained a constitutionality clause, a saving clause, and an urgency clause.

Ham vs. *Grapeland Dist.*, 172 Cal. 611, 158 Pac. 207;
Tulare Dist. vs. *Shepard*, 185 U. S. 1, 46 L. Ed. 773, 22 Sup. Ct. 531;
City of Los Angeles vs. *Watterson*, 8 Cal. App. (2d) 331, 48 Pac. (2d) 87.

In re Imperial Irr. Dist., 10 Fed. Supp. 832;
Turner vs. *Rosebury Irr. Dist.* (Idaho), 198 Pac. 465.

Sale of Bonds

SEC. 32. The board may sell said bonds from time to time in such quantities as may be necessary and most advantageous to raise money for the construction of said canals and works, the acquisition of said property and rights, or the acquisition of any water or water rights, and otherwise to fully carry out the objects and purposes of this act. Before making any sale the board shall, at a meeting, by resolution, declare its intention to sell a specified amount of the bonds, and the day and hour and place of such sale, and shall cause such resolution to be entered in the minutes, and notice of the sale to be given, by publication thereof at least three weeks in some newspaper published in the county where the office of the board of directors is located and in any other newspaper at its discretion. The notice shall state that sealed proposals will be received by the board at their office, for the purchase of bonds, till the day and hour named in the resolution. At the time appointed the board shall open the proposals and award the purchase of the bonds or any portion or portions thereof to the highest responsible bidder or bidders; provided, however, that they may reject any or all bids; and provided, further, that no proposal shall be accepted which is not accompanied by a certified check for such reasonable percentage of the amount of the bid as shall be determined by the board of directors, but in no event less than two per cent of the amount thereof to apply on the purchase price of the bonds, the amount of which check shall be forfeited if after the acceptance of the proposal the bidder shall refuse to accept said bonds and complete his purchase thereof on the conditions stated in his proposal. In case no award is made, the board thereafter may either readvertise said bonds or any part thereof for sale or sell the same or any part thereof at private sale but no sale of said bonds at private sale shall be valid unless approved by the California Bond Certification Commission. (Amended, Stats. 1921, p. 1108.)

Leeman vs. *Perris Irr. Dist.*, 140 Cal. 540, 74 Pac. 24;
Stimson vs. *Alessandro Irr. Dist.*, 135 Cal. 389, 67 Pac. 496;
Kinkade vs. *Winthrop* (Wash.), 69 Pac. 399;
Wyman vs. *Searle* (Nebr.), 128 N. W. 801;
Meyerfeld vs. *So. San Joaquin Irr. Dist.*, 3 Cal. (2d) 409, 45 Pac. (2d) 321.

For construction of refunding provisions, see *Mulcahy* vs. *Baldwin*, 216 Cal. 517, 15 Pac. (2d) 738.

Funding or Refunding Bonds; Alternative Procedure; Election; Maturities; Rates of Interest

SEC. 32a. The board of directors of any irrigation district oganized under or subject to the provisions of this act may as hereinafter provided cause funding or refunding bonds to be issued for the purpose of funding or refunding any or all outstanding bonds of the district. Such funding or refunding bonds shall, except as otherwise provided herein, be issued in substantially the manner and form prescribed by this act for the issuance of other bonds of irrigation districts, and the provisions of this act and of the act creating the California Districts Securities Commission concerning the authorization, certification, issuance and sale of bonds of irrigation districts shall be applicable to bonds issued under this section; provided, however, that no survey, examination, drawing, plan, estimate or report of the California Districts Security Commission as provided in sections 30, 30a, and 30b thereof shall be required to be made, nor shall any resolution of the board of directors that the proposed plan of works is satisfactory as prescribed by section 30b hereof be required to be adopted, but in lieu thereof the board of directors of any district desiring to fund or refund any of its bonds may submit to the California Districts Securities Commission its proposed plan for funding or refunding such bonds. The board of directors of any district may make such expenditures or, with the approval of the California Districts Securities Commission, may incur indebtedness, and issue warrants therefor, for the purpose of paying the cost and expenses incident to any such plan or any modification thereof approved in the manner hereinafter set forth or in connection with such funding or refunding. If such plan is approved by said commission, the board of directors of such district shall call an election for the purpose of authorizing the issuance of such funding or refunding bonds. Such election shall be called and held and the result thereof determined and declared substantially in the same manner as provided by this act for the issuance of other bonds of such districts, except that a majority vote only shall be required for the authorization of such funding or refunding bonds. The maturity or maturities of said funding or refunding bonds shall be fixed by the board of directors of such district subject to the approval of the California Districts Securities Commission, but in no case shall the maturity of any of said bonds be more than fifty years from the date thereof. The rate of interest on such bonds shall not exceed six per centum per annum, payable semiannually.

When any district shall have submitted its proposed plan for funding or refunding such bonds to the California Districts Securities Commission, and as one of the terms or conditions of such plan, has reserved the right to modify such plan one or more times, and said commission shall have approved such plan, and when the board of directors of such district shall thereafter desire to modify such plan, such board of directors may submit the proposed modifications of such plan for approval to said California Districts Securities Commission. If such modifications of such plan are approved by said commission, the board of directors of such district shall call an election for the purpose of authorizing such modifications to such plan. Such election shall be called and held and the result thereof determined and declared substantially in the same manner as provided by this act for the issuance of bonds of such districts, except that a majority vote only shall be required for the approval of such modifications.[1] (Amended, Stats. 1937, p. 457.)

See *City of Long Beach* vs. *Lisenby,* 180 Cal. 52, 179 Pac. 198, re definition of "refunding bonds."

See footnote to Sec. 31, *ante.*

El Dorado Irr. Dist. vs. *Browne,* 216 Cal. 269, 12 Pac. (2d) 921;
Meyerfeld vs. *So. San Joaquin Irr. Dist.,* 3 Cal. (2d) 409, 45 Pac. (2d) 321;
Selby vs. *Oakdale Irr. Dist.,* 140 Cal. App. 171, 35 Pac. (2d) 125.

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[1] Stats. 1937, Chap. 166, p. 457, amending section 32a, contains an urgency clause.

Redemption of Funding or Refunding Bonds; Sinking Fund

SEC. 32b. Any issue of such funding or refunding bonds may, in the discretion of the board of directors, mature serially or at one time, but if any issue of such bonds shall mature at one time the board of directors prior to or at the time of the issuance of such bonds shall provide for the creation of an annual sinking fund for the payment of such bonds in such amounts as may be determined by the board of directors with the approval of the California Bond Certification Commission; and the board of directors, anything in this act to the contrary notwithstanding, shall each year at the same time and in the same manner as other assessments in the district are levied and collected, levy and collect an assessment upon all of the lands in the district, in addition to all other assessments in this act required or permitted to be levied and collected, sufficient to provide the amounts of such sinking fund payments for the then current year; provided that the amount of such sinking fund payments may be modified from time to time by the board of directors with the approval of the California Bond Certification Commission. Whenever such sinking fund shall contain at least ten thousand dollars, the board of directors shall by notice published at least once a week for three successive weeks in some newspaper published in the county where the office of the district is located, and, in its discretion, in any other newspaper or newspapers, invite sealed proposals for the sale to the district of any of its outstanding funding or refunding bonds, for the payment of which such sinking fund was created. Said notice shall state the amount available for the redemption of such bonds and shall specify the time and place when such proposals will be opened. All such proposals shall be opened by the board of directors in open meeting at the time specified in said notice, or at some subsequent time to which such meeting shall be adjourned. Any or all of such proposals may be rejected, in the discretion of the board of directors. If no bids are received, or if the bids received and accepted are not sufficient to exhaust the moneys so on hand and available for the purpose, the board of directors may purchase at private sale with any available money in the sinking fund any of said bonds for the payment of which such sinking fund was created. No proposal to sell bonds to the district at a price in excess of the par value thereof shall be accepted. All bonds so purchased from sinking fund moneys shall be forthwith canceled. The board of directors may invest any money in the sinking fund in bonds of the United States or of the State of California and shall hold the bonds so purchased together with the income therefrom, as part of the sinking fund until such time as the board of directors may determine that it is for the best interests of the district that such bonds or any of them be sold. The proceeds of sale of any bonds in which any part of said sinking fund shall be invested shall be deposited in the sinking fund.

The board of directors may, with the approval of the California Bond Certification Commission, by resolution adopted at or prior to the time of issuing any funding or refunding bonds, provide for the call and redemption of any of its funding or refunding bonds, in numerical order, or by lot, as may be prescribed in said resolution, on any interest payment date prior to their fixed maturity, at not exceeding the par value thereof and accrued interest, in which event a statement to that effect shall be set forth on the face of the bond. Notice of such redemption shall be published once a week for three successive weeks in a newspaper of general circulation printed and published within the county in which the office of the district is located. The first publication of such notice shall be not less than thirty days nor more than ninety days prior to the date fixed for such redemption. After the date fixed for such redemption, if the district shall have provided funds available for the payment of the principal and interest of the bonds so called. interest on said bonds thereafter shall cease.

Notwithstanding anything to the contrary herein contained, the board of directors shall not be required to levy any such assessment for said sinking fund for said current year if the district shall have on hand surplus funds from other sources available for said sinking fund payment and shall have deposited the same in said sinking fund; and if the district shall have on hand funds available for the payment of a portion only of said sinking fund payment and shall have deposited the same in said sinking fund, said assessment for sinking fund purposes for such year shall be so levied as to provide only for raising the amount by which the amount of such sinking fund payment shall exceed the amount deposited in said sinking fund, as aforesaid. (Added, Stats. 1931, p. 779.)

See footnote to Sec. 31, *ante*.
El Dorado Irr. Dist. vs. *Browne*, 216 Cal. 269, 12 Pac. (2d) 921;
Meyerfeld vs. *So. San Joaquin Irr. Dist.*, 3 Cal. (2d) 409, 45 Pac. (2d) 321.

Sale or Exchange of Funding or Refunding Bonds

Sec. 32c. Any funding or refunding bonds herein provided for may be sold from time to time in the same manner as other bonds of the district, or, may be exchanged for such other bonds of the district upon such terms and conditions as may be approved by the California Bond Certification Commission. Any such outstanding bonds so funded or refunded or exchanged shall be immediately canceled by the treasurer. (Added, Stats. 1931, p. 781.)

See footnote to Sec. 31, *ante*.
El Dorado Irr. Dist. vs. *Browne, supra;*
Meyerfeld vs. *So. San Joaquin Irr. Dist., supra.*

Payment of Principal or Interest on Funding or Refunding Bonds

Sec. 32d. Notwithstanding anything to the contrary in this act contained, if in the judgment of the board of directors it is desirable that the principal and/or interest of any funding or refunding bonds issued pursuant to this act, or any part of such principal or interest, shall be payable solely from the proceeds, or any part thereof, of any existing or proposed contract or contracts of the district for the sale of water and/or electricity, or otherwise, or from any other source or sources of payment, other than assessments, the board of directors may, with the approval of the California Districts Securities Commission so provide by resolution adopted at or prior to the time of the issuance of such bonds. In case the board of directors shall determine that the principal of any funding or refunding bonds issued pursuant to this act, or any part of such principal, shall be payable only from the proceeds of any such contract or contracts or other source or sources of payment, other than assessments, it shall cause a brief statement of such limitations upon the payment of said principal, or portion thereof, to be set forth in such bonds; and in case such limitations shall affect the payment of the interest of such bonds or any part thereof, a statement of such limitations shall be set forth in the interest coupons representing such interest and also in the bonds to which such interest coupons are appurtenant. If such limitations shall affect the payment of a portion only of the interest which shall accrue on any funding or refunding bonds issued pursuant to this act, the board of directors may either provide that the entire installment of interest payable on any interest payment date shall be represented by a single coupon which shall contain a brief statement as to the portion of such interest, the payment of which is subject to such limitations, or, in its discretion, said board may provide that the portion of said interest the payment of which is not subject to such limitations and the portion of such interest the payment of which is subject to such limitations shall be represented by separate interest coupons, the coupons representing such portion of the interest as to which such limitations upon payment exist containing a brief statement of such limitations. In the event that the board of directors with the approval of the California Districts Securities Commission shall, pursuant to this act, provide that the principal and/or interest of any bonds, or any portion of such principal and/or interest, shall be payable solely from the proceeds of any such contract or contracts, or other source or sources of payment, other than assessments, neither the district nor any officer thereof shall be holden for such payment otherwise. (Amended, Stats. 1937, p. 1407.)

El Dorado Irr. Dist. vs. *Browne,* 216 Cal. 269, 12 Pac. (2d) 921; *Meyerfeld* vs. *So. San Joaquin Irr. Dist.,* 3 Cal. (2d) 409, 45 Pac. (2d) 321.

Irrevocable Allocation of Proceeds of Contract to Payment of Principal or Interest on Bonds

SEC. 32e. Notwithstanding anything to the contrary in this act contained, the proceeds of any existing or proposed contract or contracts, or source or sources of payment, or any portion thereof, designated by said board, may by resolution of said board be allocated to the payment of the principal and/or interest of any bonds of the district, including funding or refunding bonds, or of any portion of such principal or interest designated by said board, and after such allocation and until the payment or retirement of the bonds for the benefit of which such allocation was made, such proceeds or other source or sources of payment, or portion thereof, so designated by said board, shall be applied solely to the payment of the obligation specified in such resolution. Such allocation may be made for the exclusive benefit of any one or more issues of bonds of the district, or portions thereof, designated in such resolutions, or, in the discretion of said board, for the benefit of any bonds of the district at any time issued or outstanding. Any such allocation shall be irrevocable until all of such bonds and their appurtenant coupons shall have been paid or retired.

The provisions of this section shall be applicable to any bonds issued by any irrigation district, whether for the purpose of the acquisition or construction of irrigation works or any other works authorized by the provisions of this act, or any act amendatory hereof or supplemental hereto, or any funding or refunding bonds. Any such bonds may be made payable as to both principal and interest, either in whole or in part, from the proceeds of any existing or proposed contract or contracts or source or sources of payment, or any portion thereof, designated by the board of directors, or said bonds may be payable from assessments upon the lands in the district as in this act otherwise provided, and the proceeds of any such existing or proposed contract or contracts or source or sources of payment or any portion thereof allocated to the payment of such bonds as additional security therefor. If any bonds, including refunding bonds, shall be hereafter issued by any district under or pursuant to the terms of this section and the board of directors of such district, with the approval of the California District Securities Commission shall provide that the principal and/or interest of said bonds, or any portion thereof, shall be payable solely and exclusively from the proceeds of any such contract or contracts or other source or sources of payment, then and under such circumstances neither the district nor any officer thereof shall be holden for such payment otherwise.

The district may also, with the approval of said commission, designate any bank or trust company or banks or trust companies to act as its agent or agents for the purpose of making payment of the principal and/or interest of any of its bonds, including its funding or refunding bonds, and/or receiving the payments under any contract or contracts for the sale of water or electricity or any revenue from any other source or sources, so allocated by said board to the payment of the principal and/or interest, or any part thereof, of any such bonds, and/or for the purpose of applying such payments to the payment of such principal or interest, or portion thereof, so designated; and the district, with the consent of said commission, may from time to time substitute another bank or trust company or other banks or trust companies in the place of the bank or trust company or banks or trust companies so designated, and similarly, may substitute another bank or trust company or other banks or trust companies in the place of any bank or trust company or banks or trust companies substituted as aforesaid. (Amended, Stats. 1937, p. 1408.)

El Dorado Irr. Dist. vs. *Browne,* 216 Cal. 269, 12 Pac. (2d) 921;
Meyerfeld vs. *So. San Joaquin Irr. Dist.,* 3 Cal. (2d) 409, 45 Pac. (2d) 321.

See footnote to Sec. 31, *ante.*

SEC. 32½. (This section, relating to election on sale of bonds at less than par, was repealed by Stats. 1931, p. 121.)

For construction of refunding provisions, see *Mulcahy* vs. *Baldwin,* 216 Cal. 517, 15 Pac. (2d) 738.

Payment by Annual Assessment

SEC. 33. Said bonds and the interest thereon shall, except as provided in section 32e hereof, be paid from revenue derived from an annual assessment upon the land within the district, and all the land within the district shall be and remain liable to be assessed for such payments as hereinafter provided. The board of directors shall have power to provide for a reserve fund to be used for the payment of interest on or principal of any outstanding bonds and any source or sources of revenue may by order of the board of directors with the approval of the California Districts Securities Commission be irrevocably allocated to such reserve fund. (Amended, Stats, 1935, p. 1588.)

Bonds and coupons must be paid in order of presentation or registration.

Bates vs. *McHenry,* 123 Cal. App. 81, 10 Pac. (2d) 1038;
Shouse vs. *Quinley,* (Cal.), 37 Pac. (2d) 89.

Procedure for enforcement of lien.

Nevada Nat'l Bank vs. *Poso Irr. Dist.*, 140 Cal. 344, 73 Pac. 1056;
Boskowitz vs. *Thompson*, 144 Cal. 724, 78 Pac. 290;
Herring vs. *Modesto Irr. Dist.*, 95 Fed. 705;
Perkins vs. *People* (Colo.), 147 Pac. 356;
Henrylyn Irr. Dist. vs. *Thomas* (Colo.), 173 Pac. 541;
Henrylyn Irr. Dist. vs. *Thomas* (Colo.), 181 Pac. 979, 980;
Rialto Irr. Dist. vs. *Stowell*, 246 Fed. 294;
Norris vs. *Montezuma Irr. Dist.*, 248 Fed. 369;
Gas Securities Co. vs. *Antero & Lost Park, etc. Co.*, 259 Fed. 423.

Suit by bondholders to enforce payment.

Quinton vs. *Equitable Investment Co.*, 196 Fed. 314.

The assessments, not the bonds, are a lien on the land.

Clark vs. *Demers* (Mont.), 254 Pac. 162;
Kollock vs. *Barnard* (Ore.), 242 Pac. 847;
Dougery vs. *Bettencourt*, 213 Cal. 514, 2 P. (2d) 803.

Farwell vs. *San Jacinto, etc. Irr. Dist.*, 49 Cal. App. 167, 192 Pac. 1034;
In re Imperial Irr. Dist., 10 Fed. Supp. 832;
Shouse vs. *Quinley*, 3 Cal. (2d) 357, 45 Pac. (2d) 701;
Meyerfeld vs. *So. San Joaquin Irr. Dist.*, 3 Cal. (2d) 409, 45 Pac. (2d) 321;
Provident Land Corp. vs. *Zumwalt*, 90 Cal. App. Dec. 248.

See footnote to Sec. 31, *ante*.

ASSESSMENT FOR COMPLETION OF WORK

Assessment; Notice of Special Election Ballots

Sec. 34. In case the money raised by the sale of bonds issued be insufficient, or in case the bonds be unavailable for the completion of the plan of canal and works adopted, and the acquisition of the necessary property, waters and water rights therefor, and additional bonds be not voted, it shall be the duty of the board of directors to provide for the completion of said plan, and the acquisition of such necessary property, waters and water rights, by levy of assessments therefor; provided, however, that such levy of assessments shall not be made except first an estimate of the amount required for such purposes has been made by said board, and the question as to the making of said levy submitted to a vote of the electors of the district. Before such question is submitted the order of submission shall be entered in the minutes of the board, stating the amount to be levied and the purpose therefor, and if submitted at a special election said order shall, in addition, fix the day of election. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept once a week for at least three successive weeks. Such notices must specify the time of holding the election, and the amount of assessment proposed to be levied. Said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; provided. that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "Assessment—Yes," or "Assessment—No," or words equivalent thereto. If a majority of the votes cast are "Assessment—Yes," the board of directors shall cause an assessment in the amount named in the order of submission to be levied; if a majority of the votes cast are "Assessment—No," the result of such election shall be so declared and entered of record. (Amended, Stats. 1911, p. 514.)

Cooper vs. *Miller*, 113 Cal. 238, 45 Pac. 325;
In re Bonds of So. San Joaquin Irr. Dist., 161 Cal. 345, 119 Pac. 198;
Imperial Land Co. vs. *Imperial Dist.*, 173 Cal. 668, 161 Pac. 116;
Carson vs. *Croeker*, 31 Cal. App. 626, 161 Pac. 287;
Buschmann vs. *Turlock Irr. Dist.*, 47 Cal. App. 321, 190 Pac. 491;
Ser-Vis vs. *Victor Valley Irr. Dist.*, 190 Cal. 732, 214 Pac. 223;
Nev.-Cal. Elec. Secur. Co. vs. *Imperial Irr. Dist.*, 85 Fed. (2d) 886;
In re Imperial Irr. Dist., 10 Fed. Supp. 832.

DUTIES OF THE ASSESSOR

Assessment Book and Method of Assessment

SEC. 35. The assessor must, between the first Monday in March and the first Monday in June, in each year, assess all land in the district, which shall include city and town lots, to the persons who own, claim or have possession or control thereof, at its full cash value, as follows: He must prepare an assessment book with appropriate headings, in which must be listed all such property within the district, giving: (1) the name of the person to whom the property is assessed, and if the name is not known to the assessor, the property shall be assessed to "unknown owners"; (2) a description of the land sufficient to identify it, with an estimate of the number of acres, except in the case of city or town lots; (3) the cash value of the land. A column or columns with the headings "Lot" and "Block" or either of them may be provided for the designation of the lots and blocks, or either of them, in any city or town or recorded subdivision. If any land in the district is subject to a different rate of assessment from the other lands in the district it shall be separately designated and described. Said book shall also contain a column for showing the valuations after equalization by the board of directors, and shall be arranged to show such other facts as the board of directors may require. Improvements on any land within the districts shall be exempt from assessment for any of the purposes mentioned in this act. The term improvements as used in this section includes trees, vines, alfalfa and all growing crops and all buildings and structures of whatever class or description. (Amended, Stats. 1931, p. 233.)

Pol. Code, Sec. 3653, provides that, upon written request, the county assessor must furnish the district with a certified copy of the assessment book, so far as it pertains to property within the district.

Property exempt from assessment when devoted to a public use, otherwise not.

Recl. Dist. vs. *East Bay, etc. Dist.*, 91 Cal. App. 149, 266 Pac. 969;
Inglewood vs. *Los Angeles*, 207 Cal. 697, 284 Pac. 906;
City of Fresno vs. *Fresno Irr. Dist.*, 72 Cal. App. 503, 237 Pac. 772;
Cooper vs. *Miller*, 113 Cal. 238, 45 Pac. 325;
Escondido H. S. Dist. vs. *Escondido Seminary*, 130 Cal. 128, 62 Pac. 401;
W. U. Tel. Co. vs. *Modesto Irr. Dist.*, 149 Cal. 662, 87 Pac. 190;
Best vs. *Wohlford*, 144 Cal. 733, 78 Pac. 293;
Best vs. *Wohlford*, 153 Cal. 17, 94 Pac. 98;
Imperial Land Co. vs. *Imperial Irr. Dist.*, 173 Cal. 668, 161 Pac. 116;
Corson vs. *Crocker*, 31 Cal. App. 626, 161 Pac. 237;
Bruschi vs. *Cooper*, 30 Cal. App. 682, 159 Pac. 728;
Miller & Lux vs. *Secara*, 193 Cal. 783, 227 Pac. 171;
Wores vs. *Imperial Irr. Dist.*, 193 Cal. 609, 227 Pac. 181.

Railroad property may be assessed.

Southern Pacific Co. vs. *Stibbens*, 103 Cal. App. 664, 285 Pac. 374.

Barry vs. *Board of Directors*, 7 Cal. App. (2d) 412, 46 Pac. (2d) 298;
Trezona vs. *Tickell*, 4 Cal. (2d) 432, 49 Pac. (2d) 825.

Escaped or omitted assessment, see Secs. 35b, 39e, *post*.

"Assessment Book" Defined

SEC. 35a. The term "assessment book" as used in this act is hereby defined to include any substantial record showing the data required by this act, whether in the form of a bound volume or volumes or on cards so arranged and kept as to provide a record of the assessments. (Added, Stats. 1929, p. 161.)

Omitted Assessments Levied With Current Assessments

SEC. 35b. Any land which may have escaped the payment of any assessment, whether because of the omission of the land from the assessment book or because of illegality in the levying thereof or any proceedings relating thereto, shall, in addition to its assessment for the then current year, be entered in the assessment book by the assessor at the valuation which he may deem proper for the year of the escaped assessment. Such additional assessment shall be subject to equalization as is provided in this act for the current assessment, and at the time of levying the assessment for the current year the board of directors of the district shall levy on said land an assessment at the rate fixed in the year of the escaped assessment, or, if no rate was legally fixed in that year, the board shall levy an assessment on said land at the rate which should have been computed in that year to raise the amount of money then required by the district. Any such additional assessment shall be payable at the same time or times as the current assessment, and if not paid, shall be subject to like penalties and proceedings to enforce its collection. (Added, Stats. 1931, p. 233.)

See Sec. 39e, *post*, 35 *ante*.

Petition for Special Rate of Assessment; Hearing and Determination

SEC. 35c. Anyone having an interest in any land within the district may file with the secretary of the board of directors a verified petition, alleging that said land, or some described portion thereof, was, when it became a part of the district, irrigated from another system of works than the works of or proposed for the district and has continued ever since to be exclusively so irrigated and is entitled to a special rate of assessment, and praying the board to determine what proportion or part of the regular rates of assessment in the district should be used in levying assessments on the land described in the petition. The board shall set a time and place for the hearing of said petition, or of all of the petitions so filed if more than one has been filed, and shall cause notice thereof to be given in a newspaper published in the county wherein the office of the district is located. The notice shall state that a petition has been, or petitions have been presented to the board praying for a determination that certain lands described therein, but which need not be described in the notice, are entitled to a special rate or rates of assessment and giving the names of the petitioner, or petitioners, and the time and place set for the hearing. The board shall meet at the time and place so set and proceed in such order as it may deem proper, to hear the petition or petitions and shall hear all competent and relevant evidence offered in support of any petition or in opposition thereto, and may adjourn the hearing from time to time. A fee of ten dollars must be paid to the secretary before the filing of any such petition, and the money shall be applied to the cost of the publication of the notice and other expenses of the hearing. If there shall be any balance after the conclusion of the hearing, it shall be returned to the petitioner or divided among the petitioners contributing thereto in proportion to the respective areas described in their petitions. After the conclusion of the hearing, if the board shall find that any of the land described in any petition or petitions has been irrigated as alleged and is not and will not be so benefited by the operations of the district as to justify its assessment at the same rate as other lands in the district not so irrigated, which rate may be referred to as the regular rate of assessment, the board shall, in an order or resolution which shall be entered in full upon its minutes, describe the land entitled to a special rate of assessment, or the respective parcels thereof if separate parcels are to be assessed, and shall determine and fix the proportion or part of the regular rate of assessment which shall be applied in levying assessments on said land, or on each parcel thereof if various parcels are found to be entitled to different special rates. in order that the assessments to be levied on said land may be in accordance with the benefits which it receives or will receive from the operations of the district. If the board shall determine that any land is entitled to a special rate of assessment, a certified copy of the order or resolution so determining shall be delivered to the assessor, and thereafter, until notified of a change in such determination, he shall enter the land described therein separately in the assessment book and so designate it that it may readily be distinguished from other land not entitled to a special rate. If such a determination is made in any year too late for the land to be separately described in the assessment book, but before the annual assessment has been levied, the board shall direct the secretary to make such entries in the assessment book as will enable him to compute the assessments at the special rate or rates determined by the board. If the board shall have determined that any land is entitled to a special rate of assessment, the rates of assessment in the district shall be so computed as to be sufficient to produce the sum to be raised after deducting fifteen per cent from the assessed valuation as provided in section 60 of this act. The determination of the board with respect to any land after a hearing as aforesaid shall not be changed unless the board, on petition of a party affected, shall consent to another hearing, or on its own motion shall cause notice to be served on the owner of the land to show cause why the determination should not be changed, in either of which cases another hearing shall be advertised and held as hereinabove provided. (Added, Stats. 1931, p. 234.)

Deputy Assessors

SEC. 36. The board of directors must allow the assessor as many deputies, to be appointed by him, as will, in the judgment of the board, enable him to compute the assessment within the time herein prescribed. The board must fix the compensation of such deputies, which shall be paid out of the treasury of the district. The compensation must not exceed five dollars per day for each deputy, for the time actually engaged, nor must any allowance be made but for work done between the first Monday in March and the first Monday in August in each year.

See *ante*, p. 31, *"Appointment of Deputies."*

Completion of Assessment Book and Equalization of Assessments

SEC. 37. On or before the first Monday in August in each year, the assessor must complete his assessment book, and deliver it to the secretary of the board, who must immediately give notice thereof, and of the time when the board of directors, acting as a board of equalization, will meet to equalize assessments, by publication at least two times in a newspaper published in the county in which the office of the district is located, and if the district includes land in more than one county, then said notice shall be published at least two times in a newspaper in each county in which any portion of the district is situated. Said notice or notices shall be first published at least twenty days and not more than thirty days before the time fixed for said meeting. Failure so to publish such notice in any county other than that in which the office of the district is located shall not affect the validity of any assessment on land in a county in which notice was published as herein provided. In the meantime the assessment book must remain in the office of the secretary for the inspection of all persons interested. (Amended, Stats. 1931, p. 235.)

Lahman vs. *Hatch,* 124 Cal. 1, 56 Pac. 621;
N. P. Ry. Co. vs. *John Day Irr. Dist.* (Ore.), 211 Pac. 781, 789;
Wores vs. *Imperial Irr. Dist.*, 193 Cal. 609, 227 Pac. 181;
Miller & Lux vs. *Secara,* 193 Cal. 755, 227 Pac. 171;
Bottoms vs. *Madera Irr. Dist.,* 74 Cal. App. 681, 242 Pac. 100.

Hearing

SEC. 38. Upon the day specified in the notice required by the preceding section for the meeting, the board of directors, which is hereby constituted a board of equalization for that purpose, shall meet and continue in session from time to time, as long as may be necessary, not to exceed ten days, exclusive of Sundays, to hear and determine such objections to the valuation, acreage, or any matter pertaining to the assessment as may come before them; and the board may make such changes thereof as may be just. The secretary of the board shall be present during its session, and make all changes ordered in the assessment book; and within ten days after the close of the session he shall have the total values, as finally equalized by the board, extended into columns and added. (Amended, Stats. 1931, p. 236.)

Lahman vs. *Hatch,* 124 Cal. 1, 56 Pac. 621;
Imperial Land Co. vs. *Imperial Irr. Dist.*, 173 Cal. 668, 161 Pac. 116;
Miller & Lux vs. *Board of Supervisors,* 189 Cal. 254, 208 Pac. 304;
Wores vs. *Imperial Irr. Dist.,* 193 Cal. 609, 227 Pac. 181;
Nev.-Cal. Elec. Secur. Co. vs. *Imperial Irr. Dist.*. 85 Fed. (2d) 886.

LEVY AND COLLECTION OF ASSESSMENTS

Assessment for District Charges and Expenses

SEC. 39. The board of directors shall then, within fifteen days after the close of its session as a board of equalization, levy an assessment upon the lands within the district in an amount sufficient to raise the interest due or that will become due on all outstanding bonds of the district on the first day of the next ensuing January and the first day of the next ensuing July, or that the board of directors believes will become due on either or both of said dates, on bonds authorized but not sold; also sufficient to pay the principal of all bonds of the district that have matured or that will mature before the close of the next ensuing calendar year; also sufficient to pay in full all sums due or that will become due from the district before the close of the next ensuing calendar year on account of rentals, or charges for lands, water, water rights or other property acquired by said district under lease or contract; also sufficient to pay in full all sums due or that will become due from the district, before the close of the next ensuing calendar year on account of contracts entered into by the district for power or fuel used or to be used for the pumping of water for the irrigation of land within the district, provided, the payment of the cost of such power or fuel has not been provided for by the levying of tolls or charges for the use of water or otherwise; also sufficient to pay in full the amount of all unpaid warrants of the district issued in accordance with this act and the amount of any other contracts or obligations of the district which shall have been reduced to judgment; also such an amount as the board of directors may determine is necessary, to be set aside as a depreciation fund for the replacement or reconstruction of any specific unit or units of its works; also sufficient to raise such amount not exceeding two per centum of the aggregate value of the lands within the district according to the latest duly equalized assessment roll thereof, as the board of directors shall determine may be needed to be raised by assessment for any of the purposes of this act. The board of directors may also include in any annual assessment such an amount as it may deem proper, not exceeding one per centum of the total assessed value of the land in the district, to be apportioned to the bond fund and to be used as provided in section 52 of this act, for the redemption or purchase of bonds of the district not yet due, or for the creation of a sinking fund to pay any of such bonds as they become due; provided, however, that notwithstanding any provision of this act or any act amendatory hereof, or supplementary hereto, the board of directors may in lieu, either in whole or in part, of levying the annual assessment for the payment of interest on or principal of bonds, or for any other purposes of this act, use any income or revenue of the district derived from the sale of electric power or from the sale or lease of water or the use of water for power purposes. (Amended, Stats. 1931, p. 122.)

Mandamus is the proper remedy to collect a judgment against an irrigation district.

Thompson vs. *Perris Irr. Dist.*, 116 Fed. 769;
Board of Sup'rs vs. *Thompson*, 122 Fed. 860.

Assessments on *ad valorem* basis constitutional.

In re Madera Irr. Dist., 92 Cal. 296, 28 Pac. 272, 675.

Payment under protest.

Decker vs. *Perry*, 4 Cal. Unrep. 488.

"Outstanding bonds" defined.

Board of Directors vs. *Tregea*, 88 Cal. 334, 356, 26 Pac. 237.

Cooper vs. *Miller*, 113 Cal. 238, 45 Pac. 325;
Hughson vs. *Crane*, 115 Cal. 404, 47 Pac. 120;
Lahman vs. *Hatch*, 124 Cal. 1, 56 Pac. 621;
Escondido H. S. Dist. vs. *Escondido Seminary*, 130 Cal. 128, 62 Pac. 401;
Baxter vs. *Vineland Irr. Dist.*, 136 Cal. 185, 68 Pac. 601;
Boskowitz vs. *Thompson*, 144 Cal. 724, 78 Pac. 290;
Nevada Nat'l Bank vs. *Poso Dist.*, 149 Cal. 662, 87 Pac. 190;
In re Bonds of South San Joaquin Dist., 161 Cal. 345, 119 Pac. 198;
Imperial Land Co., vs. *Imperial Irr. Dist.*, 173 Cal. 660, 161 Pac. 113;
Hewel vs. *Hogin*, 3 Cal. App. 248, 84 Pac. 1082;
Nevada Nat'l Bank vs. *Board of Sup'rs*, 5 Cal. App. 638, 91 Pac. 122;
Corson vs. *Crocker*, 31 Cal. App. 626, 161 Pac. 287;
Buschmann vs. *Turlock Irr. Dist.*, 47 Cal. App. 321, 190 Pac. 491;
Board of Sup'rs vs. *Thompson*, 122 Fed. 860;;
Marra vs. *S. J. and P. V. Irr. Dist.*, 131 Fed. 780:
Shouse vs. *Quinley*, 3 Cal. (2d) 357, 45 Pac. (2d) 701;
Mulcahy vs. *Baldwin*, 216 Cal. 726, 15 Pac. (2d) 738;
Rohwer vs. *Gibson*, 126 Cal. App. 707, 14 Pac. (2d) 1051;
Eberhard vs. *Canon* (Colo.), 157 Pac. 189;
Rio Grande, etc. Co. vs. *Orchard Mesa Dist.* (Colo.), 171 Pac. 367;
Nelson vs. *Anderson-Cottonwood Irr. Dist.*, 51 Cal. App. 92, 196 Pac. 292;
Miller & Lux vs. *Board of Sup'rs*, 189 Cal. 254, 208 Pac. 304;

Miller & Lux vs. *Secara,* 193 Cal. 755, 227 Pac. 171;
McDonough vs. *Cooper,* 179 Cal. 384, 177 Pac. 153;
Bottoms vs. *Madera Irr. Dist.,* 74 Cal. App. 681, 242 Pac. 100;
People vs. *Honey Lake Valley Irr. Dist.,* 77 Cal. App. 367, 246 Pac. 819;
Noble vs. *Yancey* (Ore.) 241 Pac. 335;
Willard et al vs. *Glenn-Colusa Irr. Dist.,* 201 Cal. 726, 258 Pac. 959;
Wores vs. *Imperial Irr. Dist.,* 193 Cal. 609, 227 Pac. 181.

Construction of section.

Meyerfeld, Jr. vs. *South San Joaquin Irr. Dist.,* 3 Cal. (2d) 409;
Selby vs. *Oakdale Irr. Dist.,* 140 Cal. App. 171, 35 Pac. (2d) 125;
Nev.-Cal. Elec. Secur. Co. vs. *Imperial Irr. Dist.,* 85 Fed. (2d) 886.

Duty of Secretary

SEC. 39a. The secretary of the board must compute and enter in a separate column of the assessment book the respective sums in dollars and cents to be paid as an assessment on the property therein enumerated. When collected, the assessment shall be paid into the district treasury and be apportioned to the several proper funds. (Added, Stats. 1917, p. 765.)

McDonough vs. *Cooper,* 179 Cal. 384, 177 Pac. 153.

As to physical separation of funds, *see*

Buena Vista Dist. vs. *Shields,* 126 Cal. App. 241, 14 Pac. (2d) 559;
Shouse vs. *Quinley,* 3 Cal. (2d) 357, 45 Pac. (2d) 701;
Provident Land Co. vs. *Zumwalt,* 90 Cal. App. Dec. 248.

Neglect or Refusal to Make Assessment

SEC. 39b. If as the result of the neglect or refusal of the board of directors to cause such assessment and levies to be made as in this act provided, then the duly equalized assessment made by the county assessor of the county or each of the respective counties in which the district is situated shall be the basis of assessment for the district, and the board of supervisors of the county in which the office of the board of directors of said district is situated shall cause an assessment roll of said district to be prepared, and shall make the levy required by this act, in the same manner and with like effect as if the same had been made by said board of directors and all expenses incident thereto shall be borne by such district and may be collected by suit at law, which shall be commenced by the district attorney of the county whose board of supervisors caused said assessment roll to be prepared, unless the amount of such expenses shall be paid within sixty days from the time when proper demand shall have been made therefor. In case of the neglect or refusal of the collector or treasurer of any irrigation district to perform the duties imposed by law, then the tax collector and the treasurer of the county in which the office of the board of directors of such district is situated must respectively perform such duties and shall be accountable therefor upon their official bonds; but, in case any county tax collector shall collect any assessment for any irrigation district, he shall pay the same to the county treasurer, who shall place such money in special fund to the credit of the district, and shall disburse the same to the proper person for the purposes for which such assessments have been levied and shall not pay any part thereof to the treasurer of said district until said county treasurer shall be satisfied that all of the valid obligations for which such assessments were levied and for which payment has been demanded have been paid. (Added, Stats. 1917, p. 765.)

Selby vs. *Oakdale Irr. Dist.,* 140 Cal. App. 171, 35 Pac. (2d) 125.

Duty of District Attorney

SEC. 39c. It shall be the duty of the district attorney of each county in which the office of any irrigation district is located to ascertain each year whether the duties relating to the levying and collection of assessments, as in this act provided, have been performed, and if he shall learn that the board of directors or any official of any such irrigation district has neglected or refused to perform any such duty, said district attorney shall so notify the board of supervisors or the county official required by this act to perform such duty in such case, and, unless such board of supervisors or such county official shall proceed to the performance of such duty within thirty days after the receipt of such notice the district attorney shall take such action in court as may be necessary to compel the performance of such duty, and said district attorney shall give such notice to other officials, and shall take such action as may be necessary to secure the performance in their proper sequence of the other duties relating to the levying and collection of assessments, as in this act provided, that for the enforcement of the levying and collection of any assessment hereafter required to be levied and collected for the payment of any debt hereafter incurred, in case complaint shall be made to the Attorney General of the State of California that the district attorney of any county has not performed any duty devolving upon him by the provisions of this section, or that he is not proceeding with due diligence or in the proper manner in the performance of any such duty, the Attorney General shall make an investigation, and if it shall be found that such charge or charges are true, said Attorney General shall take such measures as may be necessary to enforce the performance of the duties relating to the levying and collection of assessments, as in this act provided. (Added, Stats. 1917, p. 766.)

Marra vs. *S. J. and P. V. Irr. Dist.*, 131 Fed. 780;
Selby vs. *Oakdale Irr. Dist.*, 140 Cal. App. 171, 35 Pac. (2d) 125.

Extension of Time

SEC. 39d. If as the result of the neglect or refusal of any official or officials to perform any duty relating to the levying and collection of assessments, as in this act provided, it shall be impossible for such duty to be performed within the time required and such duty shall subsequently be performed, then the time within which all duties consequent upon the performance of such duty shall be performed shall be extended so as to allow the elapsing of the intervals required by this act to elapse between the performance of such duties, and the assessments herein provided for shall not become delinquent for at least thirty days after the first publication of the notice that such assessments are due and payable, as provided in section 41 of this act. (Added, Stats. 1917, p. 767.)

Assessment of Omitted Lands

SEC. 39e. In the event any land within said district subject to assessment for the purposes of the district has not been assessed by the county assessor or does not appear upon the county assessment roll adopted by said board of supervisors as the basis of assessment for the district, the land so omitted belonging to any person, association, corporation, or municipality shall be forthwith assessed by the county assessor upon an order of the board of supervisors and a description of the property so omitted shall be written in the roll prepared for the purpose of district assessments. In such case, before any assessment is levied, the board of supervisors must meet and equalize said assessment with that of the assessment of other lands in said district. The same notice shall be given by the board of supervisors of such meeting for purpose of equalizing the assessment to be made as herein directed as is provided in this act to be given by the board of directors of an irrigation district when the said board is to meet for the purpose of equalizing assessments. All the powers and duties respecting the collection of all assessment on possession of, claim to, or right to the possession of land now provided in sections 3820, 3821, 3822, 3823, 3824, 3825 and 3829 of the Political Code, as regards county assessors shall apply, so far as applicable to irrigation district assessors. (Added, Stats. 1917, p. 767.)

See Secs. 35, 35b, *ante.*

Unpaid Tolls Part of Assessment

Sec. 39f. Whenever any tolls and charges for the use of water and other public uses provided for by this act have been fixed by the board of directors, it shall be lawful to make the same payable in advance. In case any tolls or charges remain unpaid at the time specified for the delivery of the assessment book to the collector of the district, the amount due for such tolls and charges, may be added to and become a part of the annual assessment levied upon the land upon which the water for which such tolls and charges are unpaid, was used and on the lands subject to tolls and charges for other public uses, and shall constitute a lien on said land, and if such assessment is divided and made payable in two installments such unpaid tolls and charges may be added to and become a part of the first installment of said assessment. (Amended, Stats. 1925, p. 501.)

Willard vs. *Glenn-Colusa Irr. Dist.*, 201 Cal. 726, 258 Pac. 959;
San Diego vs. *La Mesa, L. A. & S. V. Irr. Dist.,* 109 Cal. App. 280, 292 Pac. 1082.

Attaching of Assessment Lien

Sec. 40. The assessment upon land is a lien against the property assessed from and after the first Monday in March for any year. (Amended, Stats. 1917, p. 768.)

Miller & Lux vs. *Secara*, 193 Cal. 755, 227 Pac. 171;
Bolton vs. *Terra Bella Irr. Dist.,* 106 Cal. App. 313, 289 Pac. 678;
Selby vs. *Oakdale Irr. Dist.*, 140 Cal. App. 171, 35 Pac. (2d) 125;
McKaig vs. *Moutrey,* 90 Cal. App. Dec. 335;
In re Imperial Irrg. Dist., 10 Fed. Supp. 832;
Noble vs. *Provident Irr. Dist.,* 10 Cal. App. (2d) 284; 51 Pac. (2d) 896.

How divested, see Secs. 46, 47, 47a, *post.*

Erroneous Assessments, Refunding and Change Of

Sec. 40a. In case the board of directors of any irrigation district shall find that any property has been assessed in any year more than once or has been assessed by reason of a clerical error for more than its full cash value, or computed on an excessive acreage, or that any property assessed was not in the district when so assessed, the board may authorize the collector to cancel or modify such assessment as may be proper, and in case of any such change in any assessment, the secretary shall credit the collector with the amount of said assessment if it is canceled, or the amount by what it is reduced if it is modified.

Any assessments, penalties or costs thereon, or portions thereof, provided for by this act, heretofore or hereafter paid more than once, or heretofore or hereafter erroneously, or illegally collected, may by order of the board of directors be refunded by the district treasurer.

No order for the refund of assessments, penalties, or costs under this section shall be made except upon a verified claim therefor verified by the person who has paid said assessments, penalties or costs, or by his guardian, or in case of his death, by his executor or administrator, which said claim must be filed within one year after the making of the payment sought to be refunded. (Added, Stats. 1923, p. 632.)

Recovery of assessments paid.

See: *Grimes* vs. *Co. of Merced,* 96 Cal. App. 6, 273 Pac. 839;
Perrin vs. *Honeycutt,* 144 Cal. 87, 77 Pac. 776;
Sec. 3804 Pol. Code.

Due and Delinquency Dates on Assessments

SEC. 41. On or before the first day of November, the secretary must deliver the assessment book to the collector of the district, who shall within twenty days start the publication of a notice that said assessments are due and payable and will become delinquent at six o'clock p.m. on the last Monday of December next thereafter, except as provided in section 41c hereof, and that unless paid prior thereto five per cent of the amount thereof will be added as a penalty for delinquency. Provided, however, that when assessments are made payable in two installments as provided in section 41c hereof, the penalty to be added for delinquency on the first installment shall be ten per cent, and the penalty to be added to the second installment shall be five per cent. Said notice shall also state the time and place at which payment of assessments may be made. Said notice shall be published at least two times; to wit, once a week for two successive weeks, in a newspaper published in the county in which the office of the district is located, and if the district includes land in more than one county, then said notice shall be published as aforesaid in a newspaper in each county in which any portion of the district is situated. Failure to publish notice as aforesaid in any county other than that in which the office of the district is located shall not affect any assessment on land in a county in which notice was published as herein required. The collector must attend at the time and place specified in the notice to receive assessments, which must be paid in lawful money of the United States; he must mark the date of payment of any assessment in the assessment book, opposite the name of the person paying and give a receipt to such person, specifying the amount of the assessment and the amount paid, with the description of the property assessed. On the last Monday in December at six o'clock p.m. of each year, except as provided in section 41c hereof, all unpaid assessments are delinquent and thereafter the collector must collect thereon, for the use of the district, an addition of five per cent, or ten per cent on the first installment as otherwise provided in this section, of the amount thereof as a penalty for delinquency. (Amended, Stats. 1933, p. 1627.)

San Diego vs. *Linda Vista Dist.,* 108 Cal. 189, 41 Pac. 291;
Perry vs. *Otay Irr. Dist.,* 127 Cal. 565, 60 Pac. 40;
Bruschi vs. *Cooper,* 30 Cal. App. 682, 159 Pac. 728;
Corson vs. *Crocker,* 31 Cal. App. 626, 161 Pac. 287;
Holland vs. *Avondale Dist.* (Idaho), 166 Pac. 259;
Farwell vs. *San Jacinto, etc. Irr. Dist.,* 49 Cal. App. 167, 192 Pac. 1034;
See Sec. 41c, *infra;*
Shouse vs. *Quinley,* 3 Cal. (2d) 357, 45 Pac. (2d) 701.

Suit Against Delinquent to Collect Assessment

SEC. 41a. The board of directors may at any time after any assessment has become delinquent direct the collector not to proceed with the sale of any property on the delinquent list, but to bring suit against the delinquent in the proper court in the name of the district to enforce such collection. The provisions of the Code of Civil Procedure relating to pleadings, proofs, trials, and pleas are hereby made applicable to the proceedings herein provided for, and in such suit the district may recover the amount of said assessment together with the penalties and interests, provided in this act, and costs of suit. (Added, Stats. 1915, p. 1368.)

Irrigation district assessment is an assessment for benefits.
San Diego vs. *Linda Vista Irr. Dist.*, 108 Cal. 189, 41 Pac. 291;
Miller & Lux vs. *Board of Sup'rs,* 189 Cal. 254, 208 Pac. 304.

As to enforcement of collection by suit against delinquent, see
Atchison T. & S. F. Ry. Co. vs. *Recl. Dist.*, 173 Cal. 91, 159 Pac. 430.

SEC. 41b. (No section of this number.)

Assessments Payable in Installments

SEC. 41c. The board of directors may whenever they shall so determine and must upon a petition in writing, signed by a majority of the assessment payers within the district, pass a resolution providing that thereafter all assessments, except special assessments provided for by section 34 of this act, shall be payable in two installments, and thereafter such assessments shall be payable in two equal installments, unless said resolution shall specify a different percentage to be paid in the respective installments, in which case the assessments shall be payable as specified in said resolution. Such resolution must be adopted at or prior to the time of the levy of any annual assessment to be affected thereby and can not be rescinded or modified so as to affect any assessment theretofore levied. Whenever the board of directors have so determined, thereafter the first installment of the assessment levied shall become delinquent at six o'clock p.m. on the last Monday of December, and the second installment thereof shall become delinquent at six o'clock p.m. on the last Monday of June next thereafter; provided, that where an assessment has been levied as provided in section 34 of this act the whole of such assessment shall become delinquent on the last Monday in December. When provision is made as herein provided, for the payment of said assessments in two installments, the publication of the delinquent list provided for in this act, shall not be made before the first day of July, but the first publication thereof must be made on or before the first day of August, and except as otherwise in this section provided, all the provisions of this act relative to the assessment, payment and collection of assessments, notice of assessments, publication of delinquent list, and sale for delinquent assessment, and all other provisions relative to such assessments shall be applicable. (Amended, Stats. 1935, p. 361.)

SALE FOR DELINQUENT ASSESSMENTS

Publication of Delinquent List; Time and Place of Sale

SEC. 42. On or before the first day of February, except as provided in section 41c hereof, the collector must commence the publication of the delinquent list, which shall contain the names of the persons and the description of the property delinquent, and the total amount of the assessments, penalties and costs due thereon. He must publish with the delinquent list a notice that unless the assessments delinquent, together with penalties and costs accrued thereon, as shown in the list, are paid, the real property upon which such assessments are a lien will be sold to the district. Such delinquent list and notice must be published three times; to wit, once a week for three successive weeks, in a newspaper published in the county in which the property delinquent is situated; provided, however, that only such lands as may be situated in such county need be set forth in such publication; and provided further, that if any property assessed to the same person or corporation shall lie in more than one county, then such publication may be made in any county in which any portion of such property may lie. Such publication shall be made in the newspaper designated by the board of directors of the district, provided that if assessments are payable in one installment the designation of the newspaper shall be made by the board of directors on or before the fifteenth day of December of each year and if assessments are payable in two installments the designation of the newspaper shall be made by the board of directors on or before the fifteenth day of June in each year; and provided further, that if such designation is not made by the board of directors as herein provided the collector of the district shall select the newspaper in which the publication shall be made. The notice must designate the time and place of the sale. The time of sale must be not less than twenty-one nor more than twenty-eight days from the first publication, and the place must be at some point designated by the collector, within the district, or it may be at the office of the district if said office is not within the district; provided, however, that if there should occur any error in the publication of the notice of the sale of the delinquent property, or the delinquent list, which might invalidate a sale made thereunder, and such error is discovered prior to sale thereunder, the collector shall at once republish the notice of the sale of that property affected by such error, making such republication conform to the provisions of this law, and the time of sale designated in such republication must be not less than twenty-one nor more than twenty-eight days from the first republication; and the place of sale must be at some point designated by the collector within the district, or it may be at the office of the district if said office is not within the district, and stated in such republication. (Amended, Stats. 1937, p. 499.)

Best vs. *Wohlford*, 153 Cal. 17, 94 Pac. 98;
Bruschi vs. *Cooper*, 30 Cal. App. 682, 159 Pac. 728.

Publication of delinquent list.

Hanhart vs. *Co. of Madera*, 76 Cal. App. 290, 245 Pac. 444;
Adams vs. *Slee*, 92 Cal. App. 708, 268 Pac. 959.

Form of delinquent list.

Davis vs. *Pac. Imp. Co.* 137 Cal. 245, 70 Pac. 15;
Gottstein vs. *Kelly*, 206 Cal. 742, 276 Pac. 347;
Fox vs. *Wright*, 152 Cal. 59, 91 Pac. 1005;
Smith vs. *Furlong*, 160 Cal. 522, 117 Pac. 527;
Kip vs. *Danielson*, 108 Cal. App. 624, 292 Pac. 155;
Sawyer vs. *Berkeley Sec. Co.*, 99 Cal. App. 545, 279 Pac. 217;
Rexon vs. *Gaffey*, 119 Cal. App. 389, 6 Pac. (2d) 534;
Fleishman vs. *Davis*, 128 Cal. App. 174, 16 Pac. (2d) 776;
Provident Land Corp. vs. *Provident Irr. Dist.*, 90 Cal. App. Dec. 293

Costs; Sale to the District

SEC. 43. The collector must collect, in addition to the assessments due on the delinquent list, and the penalty or penalties added for delinquency, costs in the sum of fifty cents on each lot, piece or tract of land separately assessed. The collector may postpone the day of the sale from day to day, but the sale must be made within three weeks from the day fixed in the notice so published; provided, that if any sale is stayed by legal proceedings the time during which such sale is so stayed shall not be deemed a part of the time limited for making such sale. On the day fixed for the sale in the published notice thereof, or some subsequent day to which the collector may have postponed it, the whole amount of the property upon which the assessment remains unpaid shall, by the collector, be sold to the irrigation district within which such lands are situated, as the purchaser, and the collector shall make an entry "sold to the district" and shall be credited with the amount thereof in his settlement. (Amended, Stats. 1933, p. 1629.)

Woodruff vs. *Perry*, 103 Cal. 611, 37 Pac. 526;
Baxter vs. *Vineland Irr. Dist.*, 136 Cal. 185, 68 Pac. 601;
Bruschi vs. *Cooper*, 30 Cal. App. 682, 159 Pac. 728;
Corson vs. *Crocker*, 31 Cal. App. 626, 161 Pac. 287;
Young vs. *Patterson*, 9 Cal. App. 469, 99 Pac. 552;
Bell vs. *Brigance*, 74 Cal. App. 322, 240 Pac. 50;
Imperial L. Co. vs. *Imperial Irr. Dist.*, 173 Cal. 660, 161 Pac. 113.

SEC. 44. (Repealed by Stats. 1933, p. 1629.)

This section concerned the manner of sale of property for delinquent assessments and the rights of the owner or possessor and the irrigation district in relation thereto.

Designation of least quantity, etc.

Best vs. *Wohlford*, 153 Cal. 17, 94 Pac. 98;
Bolton vs. *Terra Bella Irr. Dist.*, 106 Cal. App. 313, 289 Pac. 678.

Priority of tax liens.

Nevada Nat'l Bank vs. *Poso Dist.*, 140 Cal. 344, 73 Pac. 1056;
Henrylyn Irr. Dist. vs. *Patterson* (Colo.), 176 Pac. 493.
(Political Code, section 3787; Sec. 48, *infra.*)

Sale to district must be made on subsequent day.

Glacier Co. vs. *Schlinski* (Mont.), 300 Pac. 270.

Provision excepting district from payment of fee for certificate of sale not unconstitutional as discriminatory.

Adams vs. *Slee*, 92 Cal. App. 708, 268 P. 959.

Certificate of Sale

SEC. 45. After the sale the collector shall make out in duplicate a certificate of sale for each lot, piece or tract of land separately assessed and sold, giving a description of the property sold and the amount paid therefor, and stating that it was sold for a delinquent assessment and when the purchaser will be entitled to a deed. The certificate must be signed by the collector, and one copy shall be retained by him and the other filed in the office of the county recorder of the county in which the property is situated. The district as such purchaser may sell, assign and transfer such certificate of sale for a consideration of not less than the amount of the assessment, penalties and costs, and thereupon the secretary of the board of directors shall notify the collector of such assignment. On receiving the certificate of sale the county recorder must file it in book form, and prepare an index thereto in which in separate columns he must enter the name of the person to whom the land was assessed as recited in the certificate, the name of the assessing district and the date of sale. The certificate of sale may be in substantially the following form, with the blanks properly filled in accordance with the facts in each case:

Certificate of Sale.

------Irrigation District No.------

I, the undersigned collector of ------ Irrigation District, hereby certify that on the------day of ------, 19---, I did, after notice given as provided by law, sell to------Irrigation District, hereinafter called the purchaser, for the sum of------dollars ($------) that certain real property within said district and in the county of------, State of California, bounded or described as follows, to wit:

(Insert description.)

Said land was assessed to------.

Said land was sold for a delinquent assessment levied thereon by the board of directors of said district, and the amount aforesaid was the sum due and unpaid under said assessment and the penalties and costs accruing thereon. The purchaser will be entitled to a deed to said property at any time after three years from the date of said sale unless in the meantime said property is redeemed as provided by law.

WITNESS my hand and the seal of said district this------day of------, 19---.

(District seal.)

Collector of------Irrigation District.

(Amended, Stats. 1935, p. 481.)

Wilson vs. *Carter*, 117 Cal. 53, 48 Pac. 983;
Best vs. *Wohlford*, 153 Cal. 17, 94 Pac. 98;
Bruschi vs. *Cooper*, 30 Cal. App. 682, 159 Pac. 728;
Corson vs. *Crocker*, 31 Cal. App. 626, 161 Pac. 287;
McDonough vs. *Cooper*, 179 Cal. 384, 177 Pac. 153;
Adams vs. *Slee*, 92 Cal. App. 708, 268 Pac. 959.
(See section 48, *infra.*)

SEC. 46. (Repealed, Stats. 1935, Chap. 133.)

REDEMPTION OF PROPERTY SOLD FOR DELINQUENT ASSESSMENTS

Method of Redemption

SEC. 47. A redemption of the property sold may be made within three (3) years from the date of sale, or at any time thereafter before a deed has been made and delivered, by payment in lawful money of the United States to the collector of the district of the amount for which the property was sold, plus a penalty of three-fourths ($\frac{3}{4}$) of one per cent per month from the date of sale until redemption. Redemption money so paid for the use of a certificate holder other than the district shall be held by the collector for, and on demand paid to, the holder of the certificate, and in each report the collector makes to the board of directors, he must state the respective sums of redemption money so held by him and the names of the persons entitled to receive such money if known to him. On receipt of the redemption money, plus the amount of any recorder's fee fixed by law for the service hereinafter provided for, the collector shall issue in duplicate a certificate reciting the payment thereof and stating the date and number of the certificate of sale to which the redemption applies. In case of a redemption of a part of any land described in a certificate of sale, the part so redeemed shall be described in the certificate of redemption. Upon presentation by the collector of one of the executed copies of such certificate of redemption to the county recorder in whose office the certificate of sale is on file, said recorder must attach said certificate of redemption to the certificate of sale to which it relates, or file the same, and shall mark the word "redeemed" or "partially redeemed" as the case may be, the date and by whom redeemed on the margin of the certificate of sale. The county recorder shall receive a fee of fifty cents (50¢) for filing each certificate of redemption and making the marginal notations required by this act. If the property is not redeemed within the time herein provided, the collector or his successor in office, upon demand, must make to the purchaser, or his assignee, holding the certificate of sale, a deed to the property, which deed shall refer to the date of the sale and state that no person redeemed the property during the time allowed by law for its redemption. The collector shall receive from the purchaser for the use of the district two dollars ($2) for making such deed, except when the deed is made to the district. The deed made by the collector may be in substantially the following form, the blanks being filled to show the facts in each case:

Collector's Deed.

--------------Irrigation District.

Whereas, on the ------ day of ----------, 19--, the collector of ------ Irrigation District did sell to ------ for a delinquent assessment theretofore levied by the board of directors of said district that certain real property within said district and in the county of------, State of California, bounded or described as follows, to wit:

(Insert description.)

And Whereas, no person has redeemed said land from said sale and the time for redemption has now elapsed, and said purchaser has demanded a deed to said land; now, therefore,

I, the undersigned collector of said district, do hereby grant to the said ------ all of the real property aforesaid.

Witness my hand and the seal of said district this ---- day of----, 19---.

(District seal.) ---------------------------------------
Collector of ------ Irrigation District.

If the deed shall be demanded pursuant to any sale whereof the certificate shall have been assigned the foregoing form of deed shall be amended by striking out the words "and said purchaser has demanded a deed to said land" and inserting in lieu thereof substantially the following: "and the certificate of said sale has been assigned to ------, who has demanded a deed to said land." In case partial redemption has been made the above form shall be modified so as to conform to the facts. Where property has been sold to the district and a deed for it has been given to the district as the purchaser, such district shall have the same rights thereto, and to the rents, issues and profits thereof, as a private purchaser. The district may also sell, convey, lease, give and also take options upon, and issue and take contracts of sale upon and otherwise deal with such property including sale of the same to a former owner or holder of said property, on such terms and at such price as may be approved by the board of directors. Instruments to accomplish the same shall be executed and acknowledged by the president and secretary of the board of directors. (Amended, Stats. 1937, p. 379.)

Bruschi vs. *Cooper,* 30 Cal. App. 682, 159 Pac. 728;
Schamblin vs. *Means.* 6 Cal. App. 265, 91 Pac. 1020;
Adams vs. *Slee,* 92 Cal. App. 708, 268 Pac. 959;
Teralta vs. *Shaffer,* 116 Cal. 518, 48 Pac. 613;
Johnson vs. *Taylor,* 150 Cal. 204, 88 Pac. 903.

Right of redemption governed by law in force at time of sale.
San Diego vs. *Childs,* 217 Cal. 109, 17 Pac. (2d) 734;
Mulcahy vs. *Baldwin,* 216 Cal. 730, 17 Pac. (2d) 143;
Laist vs. *Nichols,* 139 Cal. App. 202, 33 Pac. (2d) 866;
La Mesa, Lemon Grove & Spring Valley Irr. Dist. vs. *Hornbeck,* 8 Pac. (2d) 1031;
Palo Verde Irr. Dist. vs. *Jamison,* 8 Pac. (2d) 1037;
South San Joaquin Irr. Dist. vs. *Neumiller,* 2 Cal. (2d) 485, 42 Pac. (2d) 64.

Partial Redemption; Decision of Board of Directors Is Final

SEC. 47a. In all cases where a lot, piece, or parcel of land contained in any assessment has been sold or may hereafter be sold to the district for delinquent assessments and the time for redemption has not expired, a redemption of a portion of said lot, piece or parcel of land may be made, separately from the whole assessment, of any such lot, piece or parcel of land as follows:

If such lot, piece or parcel of land has a separate valuation shown on the assessment book, the collector shall estimate the amount due according to the valuation shown on the assessment book, and the redemption shall be made in the manner provided for in sections 46 and 47 of this act. If such lot, piece or parcel of land or such fractional part of such lot, piece or parcel of land does not have a separate valuation shown on the assessment book, the collector shall submit the description of the lot, piece or parcel of land, or the fractional part thereof, upon which redemption is requested to the assessor, who must place a valuation thereon. The collector shall estimate the amount due according to the valuation so placed upon the parcel upon which redemption is requested, and shall then refer said proposed redemption to the board of directors who may confirm, modify or set aside the act of the assessor, or the board may refuse to authorize such redemption, and the decision of the board shall be final and conclusive, and the collector shall conform therewith and the redemption, if authorized by said board of directors, shall be made in the manner provided for in sections 46 and 47 of this act.

Upon redemption of a portion of a lot, piece or parcel of land in the manner herein authorized the person redeeming such portion may also pay that part of the current assessment levied against the lot, piece or parcel of land out of which the portion was redeemed, as may be determined by the board to be fair and just, based upon the valuation placed on said lot, piece or parcel of land as shown on the current assessment book. Upon payment of the amount fixed as the sum to be paid as the current assessment on the portion of land so redeemed the collector shall enter on the assessment book a reference to the order of the board authorizing payment of part of the assessment, the amount paid, and date of payment; thereafter the portion redeemed shall be separately described on the assessment books. (Amended, Stats. 1935, p. 379.)

Redemption Upon Dissolution of District

SEC. 47½. The period herein prescribed for the redemption of properties sold for delinquent assessments shall not operate as a bar to the dissolution of any irrigation district. If any land has been sold for delinquent assessments of a district in process of dissolution, or in a district which has been dissolved, and the time allowed for redemption has not expired, the owner of such property or anyone in interest may redeem the same by paying the amount due thereon, computed as provided in section 46 of this act, to the county treasurer, who must issue his receipt therefor, and upon the presentation of such receipt the county recorder must cancel the certificate of sale in the manner required in the preceding section. In the event any land has been sold for nonpayment of assessments as herein provided, and no redemption has been made within the time allowed in this act therefor, in any district which may have been dissolved before the expiration of said redemption period, then a deed for the property sold and described in the certificate of sale must be made to the purchaser upon demand by the county treasurer of the county in which said irrigation district is or was situated. Such deed shall contain all the recitals of the certificate of sale, and in addition thereto, a recital that the district has been dissolved, and a deed executed in pursuance of the authority given in this section. A deed so executed shall have the same force and effect as if executed by the collector of an irrigation district. (Amended, Stats. 1927, p. 191.)

Laist vs. *Nichols,* 139 C. A. 202, 33 P. (2d) 866.

Actions Concerning Lands

SEC. 47.1. No action, suit or proceeding to set aside, cancel or question the validity or regularity of any agreement of sale, deed, lease or option heretofore or hereafter executed by the district in disposing of land theretofore deeded to the district by its collector for delinquent taxes or assessments, or to attack or question the effectiveness of any such instrument to convey or affect the title to the land therein described shall be commenced or maintained unless the same shall have been commenced within one year after the execution by the district of such agreement, deed, lease or option or within nine months after the effective date of this amendatory act, whichever be the later to expire, and thereafter all persons shall be barred from commencing or prosecuting any such action, suit or proceeding or maintaining any defense, counterclaim or cross-complaint or answer thereto in any action, suit or proceeding, which action, suit or proceeding, defense, counterclaim, cross-complaint or answer is based or depends in whole or in part upon the alleged invalidity, irregularity or ineffectiveness of such agreement, deed, lease or option. The burden of proof in any such action, suit or proceeding shall be upon the person urging the invalidity, irregularity or ineffectiveness of such agreement, deed, lease or option, or of any taxes, assessments, sales or tax deeds of which he complains to show such invalidity, irregularity or ineffectiveness, and such person shall be required to plead specifically the grounds upon which he urges such invalidity, irregularity or ineffectiveness. (Added by Stats. 1937, p. 1466.)

Tax Deeds

Sec. 48. A deed issued by the collector of an irrigation district as provided in section 47 hereof, when duly acknowledged or proved, is prima facie evidence that: (a) The property was assessed as required by law; (b) the property was equalized as required by law; (c) the assessments were levied in accordance with law; (d) the assessments were not paid; (e) at a proper time and place the property was sold as prescribed by law, and by the proper officer; (f) the property was not redeemed; (g) the person who executed the deed was the proper officer. Such deed duly acknowledged or proved is (except as against actual fraud) conclusive evidence of the regularity of all the proceedings from the assessment by the assessor, inclusive, up to the execution of the deed. The deed conveys to the grantee the absolute title to the lands described therein free of all encumbrances, except when the land is owned by the United States, or this State, in which case it is prima facie evidence of the right of possession. (Amended, Stats. 1931, p. 441.)

Cooper vs. *Miller,* 113 Cal. 238, 45 Pac. 325;
Escondido H. S. Dist. vs. *Escondido Seminary,* 130 Cal. 128, 62 Pac. 401;
Best vs. *Wohlford,* 144 Cal. 733, 78 Pac. 293;
Best vs. *Wohlford,* 153 Cal. 17, 94 Pac. 98;
Haese vs. *Heitzig,* 159 Cal. 569, 114 Pac. 816;
McDonough vs. *Cooper,* 179 Cal. 384, 177 Pac. 153;
Bruschi vs. *Cooper,* 30 Cal. App. 682, 159 Pac. 728;
Corson vs. *Crocker,* 31 Cal. App. 626, 161 Pac. 287;
Stewart vs. *Atkinson,* 96 Cal. App. 50, 273 Pac. 606;
Commercial Nat. Bank vs. *Schlitz,* 6 Cal. App. 174, 91 Pac. 750;
Laist vs. *Nichols,* 139 Cal. App. 202, 33 P. (2d) 866;
Palo Verde Irr. Dist. vs. *Jamison,* 8 P. (2d) 1037;
Boxwell vs. *Sylvia,* 117 Cal. App. 752, 4 P. (2d) 787.

All taxes and liens are on an equality.

La Mesa etc. Irr. Dist. vs. *Hornbeck,* 216 Cal. 730, 17 Pac. (2d) 143;
South San Joaquin Irr. Dist. vs. *Neumiller,* 2 Cal. (2d) 485, 42 Pac. (2d) 64.

A tax deed, latest in time, is prior in right.

Cooper vs. *Gibson,* 133 Cal. App. 532, 24 Pac. (2d) 952.

Releases to District Property

Sec. 48a. The board of directors may, on such terms as it deems for the best interests of the district, take a deed or release from any claimant, including any other taxing agency, to an interest in any property owned or claimed by the district. This shall include the right to purchase under and pursuant to section 3897 of the Political Code any land on which the district has a claim, lien or deed for unpaid assessments or taxes or any other right, title, interest or claim. (Amended, Stats. 1933, p. 2468.)

Overlapping Tax

Sec. 48b. The board of directors of any irrigation district, when it appears to be for the best interests of the district, shall have authority to discharge or compromise all or any overlapping tax or assessment liens, equal or superior in rank to those of such irrigation district, existing on any property to which such district has title and shall have authority to purchase any outstanding titles, equal or superior in rank to the title of such irrigation district, existing on such property, and notwithstanding any other provision or provisions of this act, to use any funds of the district for such purpose, and may with such funds purchase written evidences of indebtedness of such overlapping taxing agencies for such purpose. (Added, Stats. 1937, p. 508.)

Limitation of Actions

SEC. 48.1. No action, suit or proceeding to set aside, cancel or question the validity or regularity of any deed for delinquent taxes or assessments heretofore or hereafter executed to the district by its collector or to attack or question the effectiveness of any such deed to convey the absolute title to the land therein described shall be commenced or maintained unless the same shall have been commenced within one year after the recordation of such deed or within nine months after the effective date of this amendatory act, whichever be the later to expire, and thereafter all persons shall be barred from commencing or prosecuting any such action, suit or proceeding or maintaining any defense, counterclaim or crosscomplaint or answer thereto in any action, suit or proceeding, which action, suit or proceeding, defense, counterclaim, crosscomplaint or answer is based or depends in whole or in part upon the alleged invalidity, irregularity or ineffectiveness of such deed. The burden of proof in any such action, suit or proceeding shall be upon the person urging the invalidity, irregularity or ineffectiveness of such deed or of any taxes, assessments or sales of which he complains to show such invalidity, irregularity or ineffectiveness and such person shall be required to plead specifically the grounds upon which he urges such invalidity, irregularity or ineffectiveness. (Added Stats. 1937, p. 1466.)

Exceptions

SEC. 48.2. The provisions of sections 47.1 and 48.1 do not apply in the following cases:

(a) Where the assessments or taxes for which the land was sold or the certificate issued were paid before the sale.

(b) Where the land was redeemed after the sale.

(c) Where the land was not subject to assessment or taxation at the time it was assessed.

(d) Where no taxes or assessments were due on the land at the time of sale.

(e) Where fraud is established.

(f) Where the deed is void on its face.

(g) Where the owner of the land is, at the time of the sale, a minor or insane person, in which case the statute of limitations begins to run when such disability is removed.

(h) In any other case where there is a total lack of jurisdiction to make the sale or the deed. (Added Stats. 1937, p. 1466.)

Evidence of Assessment

SEC. 49. The assessment book or delinquent list, or a copy thereof, certified by the collector, showing unpaid assessments against any person, or property, is prima facie evidence of the assessment, the property assessed, the delinquency, the amount of assessments due and unpaid, and that all the forms of the law in relation to the assessment and levy of such assessments have been complied with.

Bruschi vs. *Cooper*, 31 Cal. App. 682, 159 Pac. 728;
Miller & Lux vs. *Secara*, 193 Cal. 755, 227 Pac. 171.

Mistakes in Description of Owner

Sec. 50. When land is sold for assessments correctly imposed, as the property of a particular person, no misnomer of the owner, or supposed owner, or other mistake relating to the ownership thereof affects the sale, or renders it void or voidable.

Escondido H. S. Dist. vs. *Escondido Seminary,* 130 Cal. 128, 62 Pac. 401;
Commercial Nat'l Bank vs. *Schlitz,* 6 Cal. App. 174, 91 Pac. 750;
Bruschi vs. *Cooper,* 30 Cal. App. 682, 159 Pac. 728.

Settlements Between Secretary and Collector

Sec. 51. On the first Monday in each month, the collector must settle with the secretary of the board for all moneys collected for assessments, and pay the same over the treasurer; and within six days thereafter he must deliver to and file in the office of the secretary a statement under oath showing: (a) An account of all his transactions and receipts since his last settlement; (b) that all money collected by him as collector has been paid. The collector shall also file in the office of the secretary, on said first Monday in each month, the receipt of the treasurer for the money so paid.

REDEMPTION OF BONDS AND PAYMENT OF INTEREST

Sec. 52. Upon presentation of any matured bond of the district, the treasurer shall pay the same from the bond principal fund, and upon presentation of any matured interest coupon of any bond of the district, the treasurer shall pay the same from the bond interest fund. If money is not available in the fund designated for the payment of any such matured bond or interest coupon, it shall draw interest at the rate of seven per cent per annum from the date of its presentation for payment until notice is given that funds are available for its payment, and it shall be stamped and provision made for its payment as in the case of a warrant for the payment of which funds are not available on its presentation.

Whenever there is in any fund of the district money in excess of that required for the purposes of such fund up to the time when any part of the next annual assessment levied in the district will become delinquent, the board of directors of the district may purchase with such surplus money, or any part thereof, any of its bonds not then due, and may cancel the bonds so purchased or hold the same as a part of its assets until such time as the board may determine that it is for the best interests of the district that such bonds or any of them be sold, or shall cancel the same at their date of maturity. (Amended, Stats. 1931, p. 172.)

Statute of limitations.

Sechrist vs. *Rialto Irr. Dist.*, 129 Cal. 640, 62 Pac. 261;
Curtis vs. *Rialto Irr. Dist.*, 44 Cal. App. 738, 187 Pac. 117;
Farwell vs. *San Jacinto and P. V. Irr. Dist.*, 49 Cal. App. 167, 192 Pac. 1034;
Hewel vs. *Hogin,* 3 Cal. App. 248, 84 Pac. 1082.

Bonds paid in order of presentation.

Bates vs. *McHenry,* 123 Cal. App. 81;
Selby vs. *Oakdale Irr. Dist.*, 140 Cal. App. 171, 35 Pac. (2d) 125;
Shouse vs. *Quinley,* 3 Cal. (2d) 357, 45 Pac. (2d) 701;
In re Imperial Irr. Dist., 10 Fed. Supp. 832;
Provident Land Co. vs. *Zumwalt,* 90 Cal. App. Dec. 248.

Sec. 52a. (This section related to the payment of assessments with matured bonds and coupons; repealed Stats. 1935, p. 1767.)

CONSTRUCTION OF WORKS

Awarding of Contracts; Procedure and Requirements

SEC. 53. Before the construction of any work to be paid for with the proceeds of the sale of bonds, or a special assessment levied in accordance with section 34 or section 59 of this act, the board of directors shall give notice, by publication thereof three times, to wit, once a week for three successive weeks, in a newspaper published in the county in which the office of the district is located, or, if no newspaper is published therein, then in such publication as the board may deem advisable, calling for bids for the construction of such work, or of any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice. Said notice shall set forth that plans and specifications can be seen at the office of the board, and that the board will receive sealed proposals therefor and that the contract will be let to the lowest responsible bidder, or bidders, but that any or all bids may be rejected, stating the time and place for opening said proposals, which, at the time and place appointed, shall be opened in public; and as convenient thereafter the board shall let said work, either in portions or as a whole, to the lowest responsible bidder or bidders; but the board may reject any bid or bids or may reject all bids and readvertise for proposals or may proceed to construct the work under its own superintendence; provided, that in case of emergency or urgent necessity for any such work, the board of directors, by unanimous vote of those present at any regular or special meeting, may award contracts therefor without advertising for bids, but the cost of such work shall not exceed five hundred dollars and such additional amount as shall be equal to five cents for each acre of land in the district. Contracts for the purchase of material to be furnished or used by the district in any such work shall be awarded to the lowest responsible bidder or bidders after such notice as the board of directors may deem proper. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said district for its use, for at least twenty-five per cent of the amount of the estimated contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the engineer of the district and be subject to approval by the board. (Amended, Stats. 1931, p. 1897.)

Healey vs. *Anglo Bank, Ltd.,* 5 Cal. App. 278, 90 Pac. 54;
Twohy Bros. Co. vs. *Ochoco Irr. Dist.* (Ore.), 210 Pac. 873;
See section 9 of Stats. 1917, p. 243.

Installation of fish screens may be required by injunction.

People vs. *Glenn-Colusa Irr. Dist.,* 127 Cal. App. 30, 15 Pac. (2d) 549;
Nev.-Cal. Electric Securities Co. vs. *Imperial Irr. Dist.,* 85 Fed. (2d) 886.

Investigations and Reports by State Engineer

SEC. 53a. During the construction of any irrigation works to be paid for out of the proceeds of any bond issue which has been certified by the State Irrigation District Bond Commission as provided in the act creating said commission, the State Engineer shall have access to all plans, specifications, and records of such construction, and shall from time to time make such investigations and such reports to the board of directors of the district as he shall deem to be in the interest of the public or of the district. (Added, Stats. 1917, p. 768.)

Imperial L. Co. vs. *Imperial Irr. Dist.,* 173 Cal. 660, 161 Pac. 113.

Payment of Claims; Duty of County and District Treasurers

SEC. 54. No claim shall be paid by the treasurer until allowed by the board, and only upon a warrant signed by the president, and countersigned by the secretary; provided, that the board may draw from time to time, from the construction fund, and deposit in the county treasury of the county where the office of the board is situated any sum in excess of the sum of twenty-five thousand dollars. The county treasurer of said county is hereby authorized and required to receive and receipt for the same and place the same to the credit of said district, and he shall be responsible upon his official bond for the safekeeping and disbursement of the same, as in this act provided. He shall pay out the same, or any portion thereof, to the treasurer of the district only, and only upon the order of the board, signed by the president, and attested by the secretary. The said county treasurer shall report, in writing, on the second Monday in each month, the amount of money in the county treasury, the amount of receipts for the month preceding, and the amount or amounts paid out; said report shall be verified and filed with the secretary of the board. The district treasurer shall also report to the board, in writing, on the first Monday in each month, the amount of money in the district treasury, the amount of receipts for the month preceding, and the amount and items of expenditures, and said report shall be verified and filed with the secretary of the board.

Irrigation district not subject to attachment or execution.

Irilarry vs. *San Diego,* 186 Cal. 535, 199 Pac. 1041.

Negotiability and validity of warrants.

Danby vs. *Starlight Irr. Dist.* (Ore), 157 Pac. 1066;
Interstate Trust Co. vs. *Steele* (Colo.), 173 Pac. 873-5.

Perry vs. *Otay Irr. Dist.,* 127 Cal. 565, 60 Pac. 40;
Carmichael vs. *Riley,* 56 Cal. App. 409, 205 Pac. 478;
Ser-Vis vs. *Victor Valley Irr. Dist.,* 190 Cal. 732, 214 Pac. 223;
Wilbur vs. *Tia Juana Irr. Dist.,* 94 Cal. App. 511, 271 Pac. 514;
State vs. *Dilworth* (Mont.), 258 Pac. 246.

Expenses of Officers and Employees

SEC. 54a. All claims or demands against any irrigation district presented by any member of the board of directors or by any other officer or employee thereof, for mileage, personal expenses, or for money expended by the claimant for and on behalf of the irrigation district, must be filed with the board of directors of such irrigation district upon form of demand or claim to be furnished by the district. Such claims or demands shall be itemized in detail showing dates of, place where and purpose for which any money claimed was expended and the miles traveled and purposes of trips for which mileage is claimed and such other matters as the board may require. All such claims or demands must be sworn to by the director, officers, or employee presenting the same, before the secretary of the board of directors, who is hereby authorized to administer such oath, or before any other officer duly authorized to administer oaths, which such verification must state in substance that the money therein claimed was actually expended or the mileage therein stated was actually traveled for and on behalf of the irrigation district and in pursuance of the duties of the director, officer, or employee, presenting the claim; that said claim or demand is presented in good faith and has not theretofore been paid. (Added, Stats. 1933, p. 2468.)

Financial and Progress Reports; Examination and Report by State Engineer

SEC. 54½. During the construction of any work to be paid for out of the proceeds of the sale of any bonds of any irrigation district within this State, the secretary of the board of directors shall, within one week after each regular meeting of said board, forward to the State Engineer copies of all reports made to said board as to the progress of said work and a statement of the amounts paid for the doing of any part of said work. Immediately after the publication of the statement of the financial condition of any irrigation district within this State, required by section 14 of this act to be made annually, the board of directors of said district shall cause a copy of said statement and a report stating the general condition of any works constructed or acquired by said district and whether or not the plan of irrigation adopted by the district is being successfully carried out and any other matters which the board may deem proper, to be forwarded to the State Engineer, who shall examine said statement and report and make to said board such recommendations and comments as he may deem proper. The State Engineer may at any time make or cause to be made an examination of the affairs of any irrigation district within this State or call upon the authorities of such district for such information as he may desire and make such report thereon as he may deem advisable. (Added, Stats. 1913, p. 1000.)

Tolls for Use of Water

SEC. 55. For any of the purposes of this act, or of any act supplementary hereto, the board of directors of any irrigation district may, in lieu (either in whole or in part) of levying assessments as herein provided, fix and collect rates of tolls or charges for the use of water which may include a stand-by or carrying charge notwithstanding the water is not actually used, or any other public use of which the district is in charge, under such reasonable rules and regulations as the board may prescribe, which may provide, in the case of water for irrigation, that tolls or charges will be payable only in case of the delivery of water in excess of a specified quantity per unit of land. (Amended, Stats. 1931, p. 246.)

District can not fix tolls for lands served outside of districts.

Henderson vs. *Oroville-Wyandotte Irr. Dist.*, 207 Cal. 215, 277 Pac. 487;
See also case same title 2 P. (2d) 803;
San Diego vs. *La Mesa, L. G. & S. V. Irr. Dist.*, 109 C. A. 280, 292 Pac. 1082.

Hughson vs. *Crane*, 115 Cal. 404, 47 Pac. 120;
Mitchell vs. *Patterson*, 120 Cal. 286, 52 Pac. 589;
Buschmann vs. *Turlock Irr. Dist.*, 47 Cal. App. 321, 190 Pac. 491;
Wores vs. *Imperial Irr. Dist.*, 193 Cal. 609, 227 Pac. 181;
Danley vs. *Merced Irr. Dist. et al.*, 66 Cal. App. 97, 226 Pac. 847;
Bottoms vs. *Madera Irr. Dist.*, 74 Cal. App. 681, 242 Pac. 100;
Willard vs. *Glenn-Co'usa Irr. Dist.*, 201 Cal. 726, 258 Pac. 959;
Rutherford vs. *Oroville-Wyandotte Irr. Dist.*, 215 Cal. 124, 8 Pac. (2d) 836;
Rutherford vs. *Oroville-Wyandotte Irr. Dist.*, 218 Cal. 242, 22 Pac. (2d) 505;
Nevada Cal. Electric Securities Co. vs. *Imperial Irr. Dist.*, 85 Fed. (2d) 886.

Condemnation of Rights of Way

SEC. 56. The board of directors shall have power to construct any of the works of the district across any stream of water, watercourse, street, avenue, highway, road, railway, canal, ditch, flume or other property subject to or devoted to public use, in such manner as to afford security to life and property; but said board shall restore the same, when so crossed or intersected, to its former state as near as may be, or in a sufficient manner as not to have impaired unnecessarily its usefulness. If the owner or owners of any land, easement or franchise so to be crossed can not agree with the district as to the amount to be paid therefor or the location of such crossing or any other matters in connection therewith, the same shall be determined and ascertained in all respects as is in this act provided in respect to the taking of land. In case any street, road, highway, railroad, canal, or other property subject or devoted to public use shall become subject to flooding or other interference by reason of the construction or proposed construction of any works of the district, the board of directors of the district may acquire by agreement or condemnation the right so to flood or otherwise interfere with such property, whether it be publicly or privately owned, and if such right be acquired by condemnation, the judgment may, if the court shall find that public necessity or convenience so requires, direct the district to relocate such street, road, highway, railroad, canal or other property in accordance with plans prescribed by the court; and if by such judgment or by agreement the district shall be required to relocate any such street, road, highway, railroad, canal or other property subject or devoted to public use, the board shall have power to acquire in the name of the district, by agreement or condemnation, all rights of way and other property necessary or proper for compliance with such agreement or such judgment of condemnation and thereafter to make such conveyances of such relocated street, road, highway, railroad, canal, or other property as may be proper to comply with such agreement or judgment. The right of way is hereby given, dedicated and set apart to locate, construct and maintain any of the works of the district over and through any of the lands which are now or may become the property of this State; and also there is given, dedicated and set apart, for the uses and purposes aforesaid, all waters and water rights belonging to this State within the district. (Amended, Stats. 1927, p. 194.)

McPherson vs. *Alta Irr. Dist.*, 14 Cal. App. 353, 112 Pac. 193; *MacCammelly* vs. *Pioneer Irr. Dist.* (Idaho), 105 Pac. 1076; *City of Nampa* vs. *Nampa, etc. Dist.* (Idaho), 131 Pac. 8.

DIRECTORS AND OTHER OFFICERS

Compensation

SEC. 57. The directors when sitting as a board or acting under the orders of the board, shall receive not to exceed eight dollars per day and ten cents per mile for each mile actually traveled from their respective places of residence to the office of the board, and returning therefrom, and actual and necessary expenses paid while engaged in official business under the orders of the board; provided, that in irrigation districts containing five hundred thousand acres or more the directors, in lieu of said per diem, shall each receive a salary of two hundred dollars per month. The board shall fix the compensation to be paid to all officers named in this act, to be paid out of the treasury of the district; provided, that the board shall, upon the petition of at least fifty freeholders within the district therefor, submit to the electors at any general election a schedule of salaries and fees to be paid hereunder. Such petition must be presented to the board not less than twenty days, nor more than forty days prior to a general election and the result of such election shall be determined and declared in all respects as other elections are determined and declared under this act. (Amended, Stats. 1927, p. 251.)

Rose vs. *Superior Court,* 80 Cal. App. 739, 252 Pac. 765.

Interest in Contracts by Directors and Officers Prohibited

SEC. 58. No director or any other officer named in this act shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom; and for any violation of this provision, such officer shall be deemed guilty of a misdemeanor, and such conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

City of Los Angeles vs. *Watterson,* 8 Cal. App. (2d) 331, 48 Pac. (2d) 87.

SPECIAL ASSESSMENTS

Election on Special Assessments

SEC. 59. The board of directors may at any time call a special election and submit to the qualified electors of the district the question whether a special assessment shall be levied for the purpose of raising money to be applied to any of the purposes of this act or of any act supplementary hereto. Such election must be called upon the notice prescribed, and the same shall be held and the result thereof determined and declared in all respects in conformity with the provisions of section 30d of this act. The notice must specify the amount of money proposed to be raised, and the purpose or purposes for which it is intended to be used, and it may state that said assessment shall be levied in two or three annual installments and specify the amount of the installment to be levied in each year. At the special election the ballots shall contain the words "Assessment—Yes" or "Assessment—No," or words equivalent thereto. If a majority of the votes cast are "Assessment—Yes," the board of directors shall, at the time of the annual levy hereunder, levy a sum sufficient to raise the amount voted, or, if the notice of election shall have provided for levying said assessment in annual installments, the board of directors shall, at the time of the annual levy in each of the years specified in said notice, levy such assessment as shall raise the amount of the installment provided in said notice to be raised in said year; provided, however, that in case of an unexpected emergency by which the flow of water in the canal or other supply is interrupted, the amount of the indebtedness, incurred in the repair of the works of said district, caused by such interruption, not to exceed in any one year forty thousand dollars, may also, in addition to the assessments hereinbefore provided for, be levied by the adoption of a resolution by at least four-fifths of the members of the board of directors, at the time of the levying of the annual assessment provided for in this act, without the submission of the question of such levy to a vote, as in this section hereinbefore provided. (Amended, Stats. 1919, p. 668.)

Tregea vs. *Owens,* 94 Cal. 317, 29 Pac. 643;
Imperial Land Co. vs. *Imperial Irr. Dist.,* 26 Cal. App. 529, 147 Pac. 593;
Imperial Land Co. vs. *Imperial Irr. Dist.,* 166 Cal. 491, 137 Pac. 234;
Imperial Land Co. vs. *Imperial Irr. Dist.,* 173 Cal. 660, 161 Pac. 113;
Imperial Land Co. vs. *Imperial Irr. Dist.,* 173 Cal. 668, 161 Pac. 116;
McDonough vs. *Cooper,* 179 Cal. 384, 177 Pac. 153;
Ser-Vis vs. *Victor Valley Irr. Dist.,* 190 Cal. 732, 214 Pac. 223;
Danley vs. *Merced Irr. Dist.,* 66 Cal. App. 97, 226 Pac. 847;
Bottoms vs. *Madera Irr. Dist.,* 74 Cal. App. 681, 242 Pac. 100;
Nevada Cal. Electric Securities Co. vs. *Imperial Irr. Dist.,* 85 Fed. (2d) 886.

Rate of Assessments

Sec. 60. The rate of assessments levied under the provisions of this act shall be ascertained by deducting fifteen per cent for anticipated delinquencies from the aggregate assessed value of the property in the district as it appears on the assessment roll for the current year, and then dividing the sum to be raised by the remainder of such aggregate assessed value. Special assessments shall be computed and entered by the secretary and collected as a part of the regular assessment levied hereunder, and, when collected, shall be paid into the district treasury for the purpose or purposes specified in the notices calling the respective elections at which they were voted. (Amended, Stats. 1919, p. 669.)

McDonough vs. *Cooper,* 179 Cal. 384, 177 Pac. 153;
Stevens vs. *Melville* (Utah), 175 Pac. 602;
Ser-Vis vs. *Victor Valley Irr. Dist.,* 190 Cal. 732, 214 Pac. 223.

INCURRING INDEBTEDNESS

Power to Incur Indebtedness Restricted

Sec. 61. The board of directors or other officers of the district shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this act; and any debt or liability incurred in excess of such express provisions shall be and remain absolutely void, except that for the purposes of organization, or for any of the purposes of this act, the board of directors may, before the levying of the first assessment, incur indebtedness in such sum or sums as shall amount to two thousand dollars, or, if the district shall contain more than four thousand acres, to one-half as many dollars as there are acres of land in the district, and may cause warrants of the district to be issued therefor, bearing interest at not more than seven per centum per annum, said rate to be fixed by the board of directors. Each such warrant shall be made payable on a date not later than the first day of July next after the first assessment in the district shall be levied, and if not paid when presented on the due date or thereafter shall be registered and the amount due thereon shall draw interest as provided in section 61a of this act. Nothing contained in this section shall be construed as limiting the right of the board to enter into any contract or lease for any lands, waters, water rights or other property necessary in the judgment of the board for any of the uses or purposes of the district, and by such lease or contract to bind the district for the payment of the consideration specified in such lease or contract as may be provided therein, but if the largest payment to be made under any one such lease or contract in any year exceeds an amount equal to one-fourth of one per cent of the total valuation of the land in the district according to the assessment book thereof last equalized before the making of such lease or contract, such lease or contract shall not be valid unless approved by the California District Securities Commission, or unless an assessment sufficient to meet all the principal payments to become due under such lease or contract shall have been or shall be authorized for that purpose in accordance with section 59 of this act. If any such contract shall provide for any future payment or payments, the board may cause warrants to be issued for such payment or payments, which warrants shall be made payable at the time or times provided in said contract for such payment or payments. If a special assessment shall have been voted as provided in section 59 of this act, the board may cause warrants, in an amount or amounts equal to the amount of said assessment, to be issued for the purpose or purposes thereof, which warrants shall be made payable at such time or times as the board may estimate that provision for their payment may be made from the proceeds of said assessment. In case any district shall have outstanding any warrants registered as provided in section 61a of this act, such warrants or any thereof and the accrued interest thereon may be refunded by the issuance of warrants payable at stated times to be fixed by the board, and such warrants may be exchanged for such registered warrants or may be sold for not less than the par value thereof to provide funds for the payment of such registered warrants or any thereof and the accrued interest thereon. The board may also issue warrants payable at a future time or times in consideration of money loaned to the district for the purchase of any of its outstanding bonds, provided that the annual interest payable on the warrants so issued shall be less than the annual interest on the bonds purchased with the proceeds of said warrants. Any warrant made payable as aforesaid at a future date shall draw interest at a rate to be fixed by the board, not to exceed six per cent per annum, payable annually or semi-annually as the board may prescribe, and the board may cause coupons, payable to bearer and in such form and to be signed as the board may prescribe, to be attached to such warrant to evidence such interest. No warrants made payable more than five years from the date thereof shall be valid unless the issuance of such warrants shall have been authorized by a majority of the electors voting at a special election called within the district by the board for the purpose of determining whether such warrants shall be authorized. Notice of any such election shall be given and such election shall be held and the result thereof determined as provided in section 30d of this act. In case any district shall issue warrants payable at specified future dates as herein provided and such district shall own any land or other property which it is authorized by law to lease or sell, the board may, in the contract providing for the issuance of such warrants, agree that the proceeds of the leasing or sale of such land or other property, not required by law to be used for other purposes, may be allocated to the payment of such warrant or warrants, and in such case the income or proceeds of said land or other property so allocated shall not be diverted to any other purpose until such warrant or warrants shall have been paid in full. (Amended, Stats. 1937, p. 1417.)

Mitchell vs. *Patterson*, 120 Cal. 286, 52 Pac. 589;
Buschmann vs. *Turlock Irr. Dist.*, 47 Cal. App. 321, 190 Pac. 491;
Ser-Vis vs. *Victor Valley Irr. Dist.*, 190 Cal. 732, 214 Pac. 223;
N. P. Ry. Co. vs. *John Day Irr. Dist.* (Ore.), 211 Pac. 781;
Miller & Lux vs. *Secara*, 193 Cal. 755, 227 Pac. 171;
Danley vs. *Merced Irr. Dist.*, 66 Cal. App. 97, 226 Pac. 847;
Bottoms vs. *Madera Irr. Dist.*, 74 Cal. App. 681, 242 Pac. 100;
People vs. *Honey Lake Valley Irr. Dist.*, 77 Cal. App. 367, 246 Pac. 819;
Crawford vs. *Imperial Irr. Dist.*, 200 Cal. 318, 253 Pac. 726;
Wilbur vs. *Tia Juana Irr. Dist.*, 94 Cal. App. 511, 271 Pac. 514;
Meyerfeld, Jr. vs. *South San Joaquin Irr. Dist.*, 3 Cal. (2d) 409, 45 Pac. (2d) 321.

Registration and Payment of Warrants

Sec. 61a. Whenever any warrant of the district payable on demand is presented to the treasurer for payment when funds are not available for the payment thereof, it shall thereafter draw interest at a rate to be determined by resolution of the board of directors, not, however, to exceed seven per centum per annum, until public notice is given that such funds are available. Upon the presentation of any such warrants for payment, other than warrants issued under the provisions of section 61 hereof, when funds of the district are not available to pay the same, the treasurer of the district shall endorse thereon the words "funds not available for payment," with the date of presentation and shall specify the interest that such warrants shall thereafter bear and shall sign his name thereto. He shall keep a record showing the number and amount of each such warrant, the date of its issuance, the person in whose favor it was issued, and the date of its presentation for payment. Whenever there is sufficient money in the treasury to pay all such outstanding warrants or whenever the board of directors shall order that all such warrants presented for payment prior to a certain date, be made and there is sufficient money available for such payments, the treasurer shall give notice in some newspaper published in the district, or, if none is published therein, then in some newspaper published in the county in which the district or any portion thereof is situated, or, if none is published in such county, then the treasurer shall post such notice conspicuously in the place in which the board of directors of the district holds its regular meetings, stating that he is prepared to pay all warrants of the district for the payment of which funds were not available upon their original presentation, or all such warrants which were presented for payment prior to the date fixed by the board of directors, as the case may be, and no further description of the warrants entitled to payment shall be made in such notice. Upon the presentation of any warrant entitled to payment under the terms of such notice, the treasurer shall pay it, together with interest thereon at the rate specified by the board of directors, from the date of its original presentation for payment to the date of the first publication or posting of said notice, and all warrants for the payment of which funds are declared in said notice to be available shall cease to draw interest at the time of the first publication or posting of said notice. The treasurer shall enter in the record hereinbefore required to be kept, the dates of the payment of all such warrants, the names of the persons to whom payments are made and the amount paid to each person.

No action or proceeding shall be maintained to enforce the payment of any such warrant or to require the levy of assessment therefor unless such action or proceeding be commenced within four years from the date of the original presentation of such warrant to the treasurer for payment; provided, however, that the board of directors is hereby authorized, subject to the consent of the California District Securities Commission to enter into agreement, either individually or collectively, with the holder or holders of any such warrant or warrants, fixing the time and method of, provision for and allocation of funds for the payment thereof and may by such agreement, waive, as therein set out, or otherwise waive, the time of commencing any action or proceeding thereon. (Amended, Stats. 1933, p. 1316.)

District may waive benefit of defense of statute of limitations.
Hewel vs. *Hogin*, 3 Cal App. 248, 84 Pac. 1002.

Carter vs. *Tilghman*, 119 Cal. 104, 51 Pac. 34;
People vs. *Honey Lake Valley Irr. Dist.*, 77 Cal. App. 367, 246 Pac. 819.

Acquisition of Irrigation Works

Sec. 61b. The board of directors of irrigation districts may acquire, by purchase or condemnation, the irrigation system, canals and work through which lands in such districts have been or may be supplied with water for irrigation, or other property necessary or proper for the purposes of the district, and may exchange bonds of such irrigation district for such system or canals or works or other property or for any portion thereof, or for any interest therein or for the capital stock of any corporation owning such system or other property or any portion thereof upon such terms and conditions as the said board of directors may deem best. Such irrigation system, canals and works or other property necessary for the purposes of the district may be acquired and held subject to any liens, encumbrances or obligations thereon at the time of such acquiring. (Amended, Stats. 1931, p. 247.)

Exchange of bonds for property.
Stimson vs. *Alessandro Dist.*, 135 Cal. 389, 67 Pac. 1034;
Hughson vs. *Crane*, 115 Cal. 404, 47 Pac. 120;
Stowell vs. *Rialto Dist.*, 155 Cal. 215, 100 Pac. 248;
Ham vs. *Grapeland Dist.*, 172 Cal. 611, 158 Pac. 207;
Hooker vs. *East Riverside Dist.*, 38 Cal. App. 615, 177 Pac. 184;
Rialto Dist. vs. *Stowell*, 246 Fed. 294, 297;
Baltes vs. *Farmers Irr. Dist.* (Nebr.), 83 N. W. 83;
Wyman vs. *Searles* (Nebr.), 128 N. W. 801;
O'Neil vs. *Yellowstone Dist.* (Mont.), 121 Pac. 283.

Validity of contract for exchange.
Kinkade vs. *Witherop* (Wash.), 69 Pac. 399;
Board of Directors vs. *Peterson* (Ore.), 128 Pac. 837.

District assumes terms and conditions of purchase.
Henderson vs. *Oroville-Wyandotte Irr .Dist.*, 207 Cal. 295, 277 Pac. 487;
Brooks vs. *Oakdale Irr. Dist.*, 90 Cal. App. 270, 265 Pac. 965;
McIntyre vs. *Consolidated Water Co.*, 205 Cal. 231, 270 Pac. 444;
San Diego vs. *La Mesa, L. G. & S. V. Irr. Dist.*, 109 C. A. 280, 292 Pac. 1082;
Morrison vs. *Smith Bros.*, 211 Cal. 36, 293 Pac. 53.

The procedure before the Railroad Commission for the valuation of the property of a public utility in condemnation proceedings instituted by a district is prescribed in sections 47 and 70 of the Public Utilities Act.

Validity of Bonds

Sec. 61c. Where the board of directors of an irrigation district have exchanged bonds or have agreed to exchange bonds for property rights in any irrigation system or works or other property or for any interest therein under the provisions of section 61b of this act, the court shall, in any proceeding brought under the provisions of section

68 of this act, by its decree determine the validity of all bonds issued or to be issued under any contract or contracts for the exchange of bonds for property interests and by its decree shall determine whether the bonds provided for in said contracts, when delivered to the person or corporation entitled thereto under the terms of any such contract, shall constitute valid obligations of said irrigation district as against all persons. (Amended, Stats. 1931, p. 247.)

USE OF WATER

Rotation of Use of Water by Water Commissioners

Sec. 62. In case the volume of water in any stream or river shall not be sufficient to supply the continual wants of the entire country through which it passes, and susceptible of irrigation therefrom, then it shall be the duty of the water commissioners, constituted as hereinafter provided, to apportion, in a just and equitable proportion, a certain amount of said water upon certain or alternate weekly days to different localities, as they may, in their judgment, think best for the interest of all parties concerned, and with due regard to the legal and equitable rights of all. Said water commissioners shall consist of the chairman of the board of directors of each of the districts affected.

Ditch Flowage During High Water

Sec. 63. It shall be the duty of the board of directors to keep the water flowing through the ditches under their control to the full capacity of such ditches in times of high water.

Sec. 64. (This section related to navigation and vested rights; repealed, Stats. 1917, p. 915.)

Compensation for Infringement of Rights

Sec. 65. Nothing herein contained shall be deemed to authorize any person or persons to divert the waters of any river, creek, stream, canal, or ditch from its channel, to the detriment of any person or persons having any interest in such river, creek, stream, canal, or ditch, or the waters therein, unless previous compensation be ascertained and paid therefor, under the laws of this State authorizing the taking of private property for public uses.

See Const., Art. I, Sec. 14.
Tormey vs. *Anderson-Cottonwood Irr. Dist.*, 53 Cal. App. 559, 200 Pac. 814.

Taking property previously dedicated to public use.

Henderson vs. *Oroville-Wyandotte Irr. Dist.*, 207 Cal. 215, 277 Pac. 487;

See, also, case same title 2 Pac. (2d) 803;

Turlock Irr. Dist. vs. *Sierra, etc. Co.*, 69 Cal. App. 150, 230 Pac. 671;
Mono Power Co. vs. *Los Angeles*, 284 Fed. 784;
East Bay Mun. Utility Dist. vs. *Railroad Com.*, 194 Cal. 603, 229 Pac. 949.

EXEMPTION OF DISTRICT PROPERTY FROM TAXATION

Sec. 66. The rights of way, ditches, flumes, pipe lines, dams, water rights, reservoirs, and other property of like character, belonging to any irrigation district, shall not be taxed for State and county or municipal purposes.

Constitution of California, Sec. 1, Art. XIII;
Reclamation Dist. vs. *Co. of Sacramento*, 134 Cal. 477, 66 Pac. 668;
Turlock Irr. Dist. vs. *White*, 186 Cal. 183, 198 Pac. 1060;

Crow Creek Irr. Dist. vs. *Crittenden* (Mont.), 227 Pac. 63;
La Mesa, etc. Irr. Dist. vs. *Hornbeck*, 216 Cal. 730, 17 Pac. (2d) 143.

Liability for assessments for local benefits.

Recl. Dist. vs. *East Bay, etc. Dist.*, 91 Cal. App. 149, 266 Pac. 969;
City of Fresno vs. *Fresno Irr. Dist.*, 72 Cal. App. 503, 237 Pac. 772;
Southern Pacific Co., vs. *Stibbens*, 103 Cal. App. 664, 285 Pac. 374;
Inglewood vs. *Los Angeles*, 207 Cal. 697, 280 Pac. 697.

FUNDS

Funds Established

SEC. 67. The following funds are hereby created and established, to which the moneys properly belonging shall be apportioned, to wit: bond principal fund, bond interest fund, construction fund, general fund.[1] (Amended, Stats. 1931, p. 173.)

Hughson vs. *Crane*, 115 Cal. 404, 47 Pac. 120;
Buschmann vs. *Turlock Irr. Dist.*, 47 Cal. App. 321, 190 Pac. 491;
Buena Vista Dist. vs. *Shields*, 126 Cal. App. 241, 14 Pac. (2d) 559;
Meyerfeld vs. *South San Joaquin Irr. Dist.*, 3 Cal. (2d) 409, 45 Pac. (2d) 321;
Shouse vs. *Quinley*, 3 Cal. (2d) 357, 45 Pac. (2d) 701;
Nevada-Cal. Securities Co. vs. *Imperial Irr. Dist.*, 85 Fed. (2d) 886;
Selby vs. *Oakdale Irr. Dist.*, 140 Cal. App. 171, 35 Pac. (2d) 125;
Provident Land Co. vs. *Zumwalt*, 90 Cal. App. Dec. 248.

Unexpended Money

SEC. 67a. Whenever an object for which money has been specifically provided by assessment or by bond issue has been accomplished and any money provided therefor remains unexpended, the same shall in the discretion of the board of directors be transferred to the general fund and thereafter be available for any of the purposes of this act. (Amended, Stats. 1917, p. 769.)

ACTIONS TO DETERMINE VALIDITY OF BONDS AND LEVY OF ASSESSMENTS

Actions by Board of Directors

SEC. 68. The board of directors may, at any time after the issue of any bonds or the levy of any assessment herein provided for, bring an action in the superior court of the county wherein is located the office of such board, to determine the validity of any such bonds or such levy of assessments; such action shall be in the nature of a proceeding *in rem,* and jurisdiction of all parties interested may be had by publication of summons for at least once a week for three weeks in some paper of general circulation published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the proceedings. Jurisdiction shall be complete within ten days after the full publication of such summons in the manner herein provided. Anyone interested may at any time before the expiration of said ten days appear and by proper proceedings contest the validity of such bonds or assessments. Such action shall be speedily tried and judgment rendered declaring such matter so contested either valid or invalid. Either party may have the right to appeal to the Supreme Court at any time within thirty days after the rendition of such judgment, which appeal must be heard and determined within three months from the time of taking such appeal.

Crall vs. *Poso Irr. Dist.*, 87 Cal. 140, 26 Pac. 797;
Board of Directors vs. *Tregea*, 88 Cal. 334, 26 Pac. 237;

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[1] The 931 amendment to Sec. 67, Stats. 1931, p. 172, also contained an urgency clause.

In re Madera Irr. Dist., 92 Cal. 296, 28 Pac. 272, 675;
Rialto Irr. Dist. vs. *Brandon*, 103 Cal. 384, 37 Pac. 484;
Cullen vs. *Glendora Water Co.*, 113 Cal. 503, 39 Pac. 769; 45 Pac. 822, 1047;
In re Central Irr. Dist., 117 Cal. 382, 49 Pac. 534;
People vs. *Linda Vista Irr. Dist.*, 128 Cal. 477, 61 Pac. 86;
People vs. *Perris Irr. Dist.*, 132 Cal. 289, 64 Pac. 173;
People vs. *Perris Irr. Dist.*, 142 Cal. 601, 76 Pac. 381;
Western Union Tel. Co. vs. *Modesto Irr. Dist.*, 149 Cal. 662, 87 Pac. 190;
Fogg vs. *Perris Irr. Dist.*, 154 Cal.. 209, 97 Pac. 316;
Haese vs. *Heitzig*, 159 Cal. 569, 114 Pac. 816;
In re Bonds of So. San Joaquin Irr. Dist., 161 Cal. 345, 119 Pac. 198;
Imperial Water Co. vs. *Sup'rs*, 162 Cal. 14, 120 Pac. 780;
Imperial Land Co. vs. *Imperial Dist.*, 173 Cal. 660, 161 Pac. 113;
Imperial Land Co. vs. *Imperial Dist.*, 173 Cal. 668, 161 Pac. 116;
Black Canyon Irr. Dist. vs. *Fallon* (Idaho), 122 Pac. 850;
Petition of Board of Directors Unit District (Ore.), 178 Pac. 186-8;
Gray vs. *Cardiff Irr. Dist.*, 51 Cal. App. 304, 197 Pac. 389;
Miller & Lux vs. *Secara*, 193 Cal. 755, 227 Pac. 171;
Los Angeles vs. *Watterson*, 8 Cal. App. (2d) 331, 48 Pac. (2d) 87.

Actions by Assessment Payers

SEC. 69. If no such proceedings shall have been brought by the board of directors, then, at any time within thirty days after the levy of any assessment or issue of any bonds under the provisions of this act, any district assessment payer may bring an action in the superior court of the county where the office of the board of directors is located, to determine the validity of any such assessment or such bonds. The board of directors shall be made parties defendant, and service of summons shall be made on the members of the board personally. Said board shall have the right to appear and contest such action. Such action shall be speedily tried, with the right of appeal to either party, within the time and manner herein provided for the bringing of actions by the board to determine such matters. Such appeal shall be heard and determined in the manner and within the time therein provided.

Sechrist vs. *Rialto Irr. Dist.*, 129 Cal. 640, 62 Pac. 261;
Henry vs. *Vineland Irr. Dist.*, 140 Cal. 376, 73 Pac. 1061;
Western Union Tel. Co. vs. *Modesto Irr. Dist.*, 149 Cal. 662, 87 Pac. 190;
Imperial Land Co. vs. *Imperial Irr. Dist.*, 173 Cal. 660, 161 Pac. 113;
Imperial Land Co. vs. *Imperial Irr. Dist.*, 173 Cal. 668, 161 Pac. 116;
Gray vs. *Cardiff Irr. Dist.*, 51 Cal App. 304, 197 Pac. 389;
Miller & Lux vs. *Board of Sup'rs*, 189 Cal. 254, 208 Pac. 304;
Miller & Lux vs. *Secara*, 193 Cal. 755, 227 Pac. 171;
Willard vs. *Glenn-Colusa Irr. Dist.*, 201 Cal. 726, 258 Pac. 959;
Los Angeles vs. *Watterson*, 8 Cal. App. (2d) 331, 48 Pac. (2d) 87.

Consolidation of Actions

SEC. 70. If more than one action shall be pending at the same time concerning similar contests in this act provided for, they shall be consolidated and tried together.

Imperial Land Co. vs. *Imperial Irr. Dist.*, 173 Cal. 660, 161 Pac. 113.

Immaterial Errors or Omissions Disregarded

SEC. 71. The court hearing any of the contests herein provided for, in inquiring into the regularity, legality, or correctness of such proceedings, must disregard any error, irregularity, or omission which does not affect the substantial rights of the parties to said action or proceeding. The rules of pleading and practice provided by the Code of Civil Procedure, which are not inconsistent with the provisions of this act, are applicable to all actions or proceedings herein provided for. The motion for a new trial of any such action or proceeding must be heard and determined within ten days from the filing of the notice of intention. The costs on any hearing or contest herein provided for, may be allowed and apportioned between the parties, or taxed to the losing party, in the discretion of the court.

Lahman vs. *Hatch*, 124 Cal. 1, 56 Pac. 821;
Palmdale Irr. Dist. vs. *Rathke*, 91 Cal. 538, 27 Pac. 783;
Board of Directors vs. *Abila*, 106 Cal. 365, 39 Pac. 793;
Imperial Land Co. vs. *Imperial Irr. Dist.*, 173 Cal. 660, 161 Pac. 113;
La Mesa, L. G. & S. V. Irr. Dist. vs. *Halley*, 197 Cal. 50, 239 Pac. 719.

Statute of Limitations

SEC. 72. No contest of any thing or matter herein provided shall be made other than within the time and manner herein specified, and in any such action all findings of facts or conclusions of said board of directors, or of the board of supervisors upon all matters, shall be conclusive, unless such action was instituted within six months after such finding or conclusion was made. (Amended, Stats. 1915, p. 1370.)

Imperial Water Co. vs. *Board of Sup'rs*, 162 Cal. 14, 120 Pac. 780;
Imperial Land Co. vs. *Imperial Irr. Dist.*, 173 Cal. 660, 161 Pac. 113;
Miller & Lux vs. *Board of Sup'rs*, 189 Cal. 254, 208 Pac. 304;
N. P. Ry. Co. vs. *John Day Irr. Dist.* (Ore), 211 Pac. 781;
Miller & Lux vs. *Secara*, 193 Cal. 755, 227 Pac. 171;
Willard vs. *Glenn-Colusa Irr. Dist.*, 201 Cal. 726, 258 Pac. 959;
Los Angeles vs. *Watterson*, 8 Cal. App. (2d) 331, 48 Pac. (2d) 87.

VIOLATION OF DUTY BY OFFICER

Liability on Official Bonds; Liability Insurance

SEC. 73. For any wilful violation of any express duty herein provided for, on the part of any officer herein named, he shall be liable upon his official bond, and be subject to removal from office, by proceedings brought in the superior court of the county wherein the office of the board of directors of the district is located, by any assessment payer of the district; but no officer of an irrigation district shall be personally liable for any damage resulting from the operation of the district or from the negligence or misconduct of any of its officers or employees unless such damage was proximately caused by the officer's own negligence or misconduct or by his wilful violation of official duty. Any irrigation district may carry insurance against any liability of the district and/or any of its directors, officers and employees, as such, and pay the premium for such insurance out of the general fund of the district. (Amended, Stats. 1933, p. 540.)

Applicability of Sec. 165 of the Penal Code.
People vs. *Turnbull*, 93 Cal. 630, 29 Pac. 224.

Recall—see Sec. 28½, *infra*.

Kerr vs. *Superior Court*, 130 Cal. 183, 62 Pac. 479;
Whiteman vs. *Anderson-Cottonwood Irr. Dist.*, 60 Cal. App. 234;
Rose vs. *Superior Court*, 80 Cal. App. 739, 252 Pac. 765;
Nisson vs. *Coult*, 96 Cal. App. 611, 274 Pac. 603;
Nisson vs. *Cordua Irr. Dist.*, 204 Cal. 542, 269 Pac. 171;
Hilton vs. *Oliver*, 204 Cal. 535, 269 Pac. 425.

See section 3342 of the Civil Code, *supra*, p. 34.

RELIEF FROM DISTRICT OBLIGATIONS

Procedure

SEC. 73a. (This section related to the procedure by which property owners might be relieved from district bond obligations; repealed, Stats. 1935, p. 1744.)

EXCLUSION OF LANDS

Exclusion of Lands and Effect Thereof

Sec. 74. The boundaries of any irrigation district now organized or hereafter organized under the provisions of this act, may be changed, and tracts of land which were included within the boundaries of such district at or after its organization under the provisions of said act, may be excluded therefrom, in the manner herein prescribed; but neither such change of the boundaries of the districts nor such exclusion of lands from the district shall impair or affect its organization, or its right in or to property, or any of its rights or privileges of whatever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which said district was and may become liable or chargeable, had such change of its boundaries not been made, or had not such land been excluded from the district.

Board of Directors vs. *Tregea*, 88 Cal. 334, 26 Pac. 237;
Herring vs. *Modesto Dist.*, 95 Fed. 705;
Drake vs. *Schoregge, treasurer et al.* (Mont.), 227 Pac. 627;
Harelson vs. *So. San Joaquin Irr. Dist.*, 20 Cal. App. 324, 128 Pac. 1010.

Petition for Exclusion

Sec. 75. The owner or owners in fee of not less than one-half in area of a tract of land that is a portion of an irrigation district may jointly or severally file with the board of directors of the district a petition, praying that such tract may be excluded and taken from the district. The petition shall state the grounds and reasons upon which it is claimed that such tract should be excluded, and shall describe the boundaries thereof, and also shall describe the lands of such petitioner or petitioners which are included within such boundaries; but the description of such lands need not be more particular or certain than is required when the lands are entered in the assessment book by the county assessor. If any owner or owners of record of any land within such tract shall not sign said petition, it shall describe the parcel or parcels of land owned by any such person or persons and give the name or names of the owner or owners thereof according to the records of the county recorder of the county in which such parcel is or parcels are situated. Such petition must be acknowledged in the same manner and form as is required in the case of a conveyance of land, and the acknowledgment shall have the same effect as evidence as the acknowledgment of such a conveyance. (Amended, Stats. 1937, p. 1416.)

Harelson vs. *So. San Joaquin Irr. Dist.*, 20 Cal. App. 324, 128 Pac. 1010;

Exclusion of Tax Deed Lands

Sec. 75a. If any land within an irrigation dstrict has been deeded to the district and the district still holds title thereto, the board of directors of the district, if it shall determine that it would be for the best interests of the district if any such land were excluded therefrom, may by resolution declare its intention to exclude such land, and in such resolution shall describe the land proposed to be excluded and give the reasons for such proposed exclusion and fix a time for the hearing of said matter before the board, which time shall be not less than twenty-eight days after the date of the adoption of said resolution. Thereupon the secretary of the board shall cause notice of such declaration and of the time and place for said hearing to be given in the manner prescribed in section 76 of this act. Such notice shall describe the land proposed to be excluded and give the reasons therefor as stated in said resolution and shall notify all persons interested in, or who may be affected by, such proposed exclusion of land to appear at the office of the board at the time fixed in said resolution and show cause in writing, if any they have, why said land or any part thereof should not be excluded as proposed in said resolution. The proceedings at said hearing and thereafter shall be as provided in this act in case of a petition for the exclusion of land from the district, except that no evidence need be taken at said hearing, except proof of the giving of said notice as herein provided, unless an objection in writing to the exclusion of said land, or some part thereof, is filed with the board at or before the time of said hearing. (Added, Stats. 1937, p. 1416.)

Notice of Petition and of Order to Show Cause

Sec. 76. The secretary of the board of directors shall cause a notice of the filing of such petition to be published for at least two weeks in some newspaper published in the county where the office of the board of directors is situated, and if any portion of such territory to be excluded lie within another county or counties, then said notice shall be so published in a newspaper published within each of said counties; or if no newspaper be published therein, then by posting such notice for the same time in at least three public places in said district, and in case of the posting of said notices, one of said notices must be so posted on the lands proposed to be excluded. The notice shall state the filing of such petition, the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or who may be affected by such change of the boundaries of the district, to appear at the office of said board at a time named in said notice, and show cause, in writing, if any they have, why the change of the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice.

Harelson vs. *So. San Joaquin Irr. Dist.*, 20 Cal. App. 324, 128 Pac. 1010;
Drake vs. *Schoregge, treasurer, et al.* (Mont.), 277 Pac. 627.

Hearing on Petition; Failure to Show Cause Deemed Assent

Sec. 77. The board of directors, at the time and place mentioned in the notice, or at the time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all evidence or proofs that may or shall be introduced by or on behalf of the petitioner or petitioners, and all objections to such petition that may or shall be presented in writing by any person showing cause as aforesaid, and all evidence and proofs that may be introduced in support of such objections. Such evidence shall be taken down in shorthand, and a record made thereof and filed with the board. The failure of any person interested in said district, other than the holders of bonds thereof outstanding at the time of the filing of said petition with said board, to show cause, in writing, why the tract or tracts of land mentioned in said petition should not be excluded from said district, shall be deemed and taken as an assent by him to the exclusion of such tract or tracts of land, or any part thereof, from said district; and the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent by each and all of such petitioners to the exclusion from such district of the lands mentioned in the petition, or any part thereof. The expenses of giving said notice and of the aforesaid proceeding shall be paid by the person or persons filing such petition.

Harelson vs. *So. San Joaquin Irr. Dist.,* 20 Cal. App. 324, 128 Pac. 1010.

Determination by Board

Sec. 78. If, upon the hearing of any such petition, no evidence or proofs in support thereof be introduced, or if the evidence fail to sustain said petition, or if the board deem it not for the best interest of the district that the lands, or some portion thereof, mentioned in the petition, should be excluded from the district, the board shall order that said petition be denied as to such lands; but if the said board deem it for the best interest of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, and if no person interested in the district show cause in writing why the said lands or some portion thereof, should not be excluded from the district, or if, having shown cause, withdraws the same, or upon the hearing fails to establish such objections as he may have made, then it shall be the duty of the board to, and it shall forthwith, make an order that the lands mentioned and described in the petition or some defined portion thereof, be excluded from said district; provided, that it shall be the duty of said board to order, upon petition therefor as aforesaid, that all lands so petitioned to be excluded from said district shall be excluded therefrom which in the judgment of the board will not be benefited by the operations of the district. (Amended, Stats. 1931, p. 237.)

Harelson vs. *So. San Joaquin Irr. Dist.,* 20 Cal. App. 324, 128 Pac. 1010;
Board of Directors vs. *Tregea,* 38 Cal. 334, 26 Pac. 237;
Miller & Lux vs. *Secara,* 193 Cal. 755, 227 Pac. 171;
Hand vs. *El Dorado Irr. Dist.,* 97 Cal. App. 740, 276 Pac. 137;
Shull vs. *Merced Irr. Dist.,* 90 Cal. App. 270, 265 Pac. 965.

Release from Bond Liens

Sec. 79. If there be outstanding bonds of the district at the time of the filing of said petition, the holders of such outstanding bonds may give their assent, in writing, to the effect that they severally consent that the lands mentioned in the petition, or such portion thereof as may be excluded from said district by order of said board, or the decree of the superior court as hereinafter provided, may be excluded from the district; and if said lands, or any portion thereof, be thereafter excluded from the district, the lands so excluded shall be released from the lien of such outstanding bonds. The assent must be acknowledged by the several holders of such bonds in the same manner and form as is required in case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such conveyance. The assent shall be filed with the board; and must be recorded in the minutes of the board; and said minutes, or a copy thereof, certified by the secretary of said board, shall be admissible in evidence, with the same effect as the said assent, and such certified copy thereof may be recorded in the office of the county recorder of the county wherein said lands are situated.

Recordation of Order of Exclusion

SEC. 80. In the event the said board of directors shall exclude any lands from said district upon petition therefor, it shall be the duty of the board of directors to make an entry in the minutes of the board, describing the boundaries of the district, should the exclusion of said lands from said district change the boundaries of said district, and for that purpose the board may cause a survey to be made of such portions of the district as the board may deem necessary; and a certified copy of the entry in the minutes of the board excluding any land, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district; but said district, notwithstanding such exclusion, shall be and remain an irrigation district as fully, to every intent and purpose, as it would be had no change been made in the boundaries of the district, or had the lands excluded therefrom never constituted a portion of the district.

Office of Director of Excluded Division Declared Vacant

SEC. 81. If the lands excluded from any district under this act shall embrace the greater portion of any division or divisions of such district, then the office of director for such division or divisions shall become and be vacant at the expiration of ten days from the final order of the board excluding said lands; and such vacancy or vacancies shall be filled by appointment by the board of supervisors of the county where the office of such board is situated, from the district at large. A director appointed as above provided, shall hold his office until the next regular election for said district, and until his successor is elected and qualified.

Reestablishment of Boundaries of Divisions Upon Order of Exclusion

SEC. 82. In case land is excluded from any district, the board of directors thereof, if they deem it desirable, but not less than thirty days before any election in such district. may reestablish the boundaries of the divisions and election precincts within such district. (Amended, Stats. 1921, p. 860.)

Authority of Personal Representative

SEC. 83. A guardian and executor, or an administrator of an estate, who is appointed as such under the laws of this State, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereto properly authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act provided, why the boundaries of the district should not be changed.

Lands Excluded Not Released from Prior Indebtedness

SEC. 84. Nothing in this act provided shall, in any manner, operate to release any of the lands so excluded from the district from any obligation to pay, or any lien thereon, of any valid outstanding bonds or other indebtedness of said district at the time of the filing of said petition for the exclusion of said lands, but upon the contrary, said lands shall be held subject to said lien and answerable and chargeable for and with the payment and discharge of all of said outstanding obligations at the time of the filing of the petition for the exclusion of said land, as fully as though said petition for such exclusion were never filed and said order or decree of exclusion never made; and for the purpose of discharging such outstanding indebtedness, said lands so excluded shall be deemed and considered as part of said irrigation district the same as though said petition for its exclusion had never been filed or said decree of exclusion never made; and all provisions which may have been resorted to to compel the payment by said lands of its quota or portion of said outstanding obligations, had said exclusion never been accomplished, may, notwithstanding said exclusion, be resorted to to compel and enforce the payment on the part of said lands of its quota and portion of said outstanding obligations of said irrigation district for which it is liable, as herein provided. But said land so excluded shall not be held answerable or chargeable for any obligation of any nature or kind whatever, incurred after the filing with the board of directors of said district of the petition for the exclusion of said lands from the said district; provided, that the provisions of this section shall not apply to any outstanding bonds, the holders of which have assented to the exclusion of such lands from said district, as hereinbefore provided. Provided, further, that if within ten days of the time of any order excluding any lands from an irrigation district, other lands of equal or greater assessable value, have been included within the district, such excluded lands shall no longer be subject to further assessment by the district, except in the event of proceedings on behalf of the bondholders to enforce the payment by said excluded lands of their pro rata share of any principal or interest due and unpaid on the district's bonded indebtedness incurred while such excluded lands were part of such irrigation district. (Amended, Stats. 1929, p. 689.)

Drake vs. *Schoregge, Treasurer, et al.* (Mont.), 277 Pac. 627.

INCLUSION OF LANDS

Inclusion of Lands and Effect Thereof

SEC. 85. The boundaries of any irrigation district organized or existing under the provisions of this act may be changed to include additional land within such district as hereinafter in this act provided, and the inclusion within any district of any land not contiguous thereto shall be deemed to effect a change of the boundaries of said district; but no change in the boundaries of any district shall impair or affect its organization or its right in or to property, or any of its rights or privileges of whatever kind or nature, nor shall it affect, impair or discharge any contract, obligation, lien or charge for or upon which it was or might become liable or chargeable had such change of its boundaries not been made. (Amended, Stats. 1927, p. 191.)

Gray vs. *Cardiff Irr. Dist.*, 51 Cal. App. 307, 197 Pac. 384.

Petition for Inclusion

SEC. 86. The holder or holders of title, or evidence of title, or a majority of the holders of title, or evidence of title of any tract of land may file in the office of the board of directors of any irrigation district a petition praying that said tract of land be included within said district; provided, that if there is more than one holder of title or evidence of title of said land, the petitioners must include the holders of title or evidence of title of at least one-half of the area of said land. If any petitioner is the owner of an undivided interest in said land or any of it, he shall be deemed to be the owner of such proportion of the area of land in which he has an interest as his interest bears to the whole of such land. Each signature to such petition shall be acknowledged or proved as provided by law for signatures to an instrument to entitle it to be recorded. The petition may state that if the land described therein is included within the district, it shall not become liable by assessment or otherwise for any of the outstanding obligations, bonded or otherwise, of the district, and that the land then within the district shall not be liable for assessment or otherwise on account of any costs or expenses for the acquisition or construction of works, waters, water rights, or other property to be used or now used for the irrigation of the lands to be included, but that the lands to be included shall be subject to such assessments and charges as may be necessary to provide for all or part of the costs of works, water, water rights and other property necessary to provide for the irrigation thereof, and the cost of maintaining and operating such works or the liability of the lands to be included may be limited solely to the fixing and collecting of tolls and charges for the use of water on such lands, and the petition may set forth any other terms or conditions with respect to the inclusion of the land described in the petition and the liability of said land for any costs or expenses to be incurred thereafter. (Amended, Stats. 1935, p. 84.)

Gray vs. *Cardiff Irr. Dist.*, 51 Cal. App. 304, 197 Pac. 389;
People vs. *Cardiff Irr. Dist.*, 51 Cal. App. 307, 197 Pac. 384.

Notice of Petition and of Order to Show Cause

Sec. 87. The secretary of the board of directors shall cause a notice of the filing of said petition to be given and published in the same manner and for the same time as notices of special elections for the issuance of bonds are required in this act to be given and published. The notice shall state the purpose of the petition and describe the boundaries of the tract of land proposed to be included and give the names of the petitioners, and it shall notify all persons interested in or that may be affected by the proposed inclusion of said land within the district to appear at the office of said board at a time named in said notice for the hearing of said petition and objections thereto and show cause in writing, if any they have, why said land or any of it should not be included as proposed in said petition. The time to be specified in the notice for the hearing of said petition and any objections thereto shall be the regular meeting of the board next after the expiration of the time for the publication of said notice. The petitioners shall advance to the secretary sufficient money to pay for the publication of said notice. (Amended, Stats. 1927, p. 192.)

Hearing on Petition; Failure to Show Cause Deemed Assent

Sec. 88. The board of directors, at the time and place mentioned in the said notice, or at such other time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all the objections thereto, presented in writing by any person showing cause as aforesaid why said proposed change of the boundaries of the district should not be made. The failure by any person interested in said district, or in the matter of the proposed change of its boundaries, to show cause, in writing, as aforesaid, shall be deemed and taken as an assent on his part to a change of the boundaries of the district as prayed for in said petition, or to such a change thereof as will include a part of said lands. And the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent on the part of each and all of such petitioners to such a change of said boundaries that they may include the whole or any portion of the lands described in said petition.

Payment of Prior Assessments as Condition Precedent

SEC. 89. The board of directors to whom such petition is presented, may require, as a condition precedent to the granting of the same, that the petitioners shall severally pay to such district such respective sums, as nearly as the same can be estimated (the several amounts to be determined by the board), as said petitioners or their grantors would have been required to pay to such district as assessments, had such lands been included in such district at the time the same was originally formed; or may require such other conditions as said board may consider proper. (Amended, Stats. 1935, p. 84.)

Nile Irr. Dist. vs. *G. S. Co.*, 248 Fed. 861.

Determination by Board

SEC. 90. If the board of directors, after the hearing provided for in section 88 hereof, shall determine that said petition complies with the requirements of section 86 hereof and that the inclusion within the district of the tract of land described in said petition, or some portion or portions thereof, will be for the best interests of the district, and if no protest against the inclusion of such land is made as provided in section 91 hereof, or if such protest be made and enough signatures be withdrawn therefrom so that said protest is no longer sufficient, the board shall order the boundaries of the district to be changed so that said tract of land, or such portion or portions thereof as the board shall deem it for the best interests of the district to include, subject to such terms and conditions as may be prescribed, shall be included within the district, but no land shall be so included unless the board, after the hearing aforesaid, shall determine that it can be irrigated by means of some of the works of the district or by means of practicable works connecting therewith and will be benefited by such irrigation; and if the board determines that only a portion or certain portions of the tract of land described in said petition should be included, said petition shall be dismissed unless the petitioners include a majority of the holders of title or evidence of title of said portion, or of each of said portions, of said tract, representing also at least one-half the area of said portion, or of each of said portions, or unless, within sixty days from the time such determination is made, there shall be filed with the board the consent in writing, acknowledged or proved as required in section 86 hereof, of a majority of the holders of title or evidence of title of said portion, or of each of said portions of said tract of land, representing also at least one-half of the area of said portion or of each of said portions. The order shall describe the boundaries of the land so included within the district, and if said land adjoins any portion of the district the order shall also describe that portion of the boundary of the district which coincides with the boundary of the land so included, and for the purposes of said order the board may cause a survey to be made of such portions of said boundaries as may be deemed necessary. If so requested and provided in the petition for inclusion the board may provide that such lands included within said district shall not become liable by assessment or otherwise for any of the outstanding obligations, bonded or otherwise, of the district, and that the lands then within the district shall not be liable for assessments or otherwise on account of any costs or expenses for the acquisition or construction of works, waters, water rights, or other property used or to be used for the irrigation of the lands to be included, but that the lands to be included shall be subject and liable to such assessments and charges as may be necessary to provide for all or part of the costs of works, waters, water rights and other property necessary to provide for the irrigation thereof, and the cost of maintaining and operating such works, and the board of directors shall be authorized and empowered to levy assessments, annual or otherwise, and to fix such assessment rate, upon such lands so included, as may be necessary to raise and pay the amount of the obligations so assumed by said included lands as they accrue, or such amount may be raised in whole or in part by, or the liability of such included lands for the payment of any indebtedness may be solely limited to, the fixing and collection of tolls and charges for the use of water on such lands and all the provisions of this act in reference to the levy of assessments and the fixing of tolls and charges for the use of water shall be applicable to such included lands to the extent of the liabilities assumed by such lands under the provisions of the order or orders of inclusion. If more than one petition for the inclusion of land has been presented, the board may in one order include within the district any number of separate tracts of land. Any public land of the United States of America may be included within any irrigation district by such order of the board of directors without any petition therefor except as may be required by the laws of the United States, if such land can be irrigated by means of any of the works of the district or by any practicable works connecting therewith and will be benefited by such irrigation. When the board finds that the inclusion of any land within an irrigation district without condition would work an injury to the land already within the district, the board may prescribe conditions upon such inclusion of land either by providing for priority of right to water for the land already in the district or for the payment of an additional annual charge upon the land included or such other conditions as may to the board seem just. If any such conditions are prescribed by the board all the owners of the land subject to such conditions must, before any order for its inclusion is made, sign an agreement with the district describing the land so to be included and specifying such conditions. The signatures to said agreement must be acknowledged or proved as provided by law for the signatures of instruments to be recorded, and said agreements must be recorded in the office of the county recorder of the county in which such lands are situated, and thereupon and upon the recording of a copy of the order including such lands as hereinafter provided, such lands shall become a part of the district subject to the conditions of said agreement. Or in lieu of the execution and recording of such agreement signed and acknowledged by the owners of land to be included subject to such conditions the board of directors may adjourn said hearing for not less than thirty days nor more than sixty days and shall give notice of the time and place of such adjourned hearing by publication in a newspaper of general circulation published in the county in which the office of the board of directors is located and in which the lands affected are situate for not less than once a week for three consecutive weeks; said notice so published shall set out at length the conditions proposed to be imposed and directing all persons interested to appear at the time and place specified in said notice and show cause, if any they have, why such conditions should not be imposed. At such hearing, or at any further adjournment thereof duly entered upon the minutes, the board of directors may by resolution adopt, reject, or modify such conditions as may be just and make the order hereinabove provided for containing such of said conditions as may have been adopted and such order shall be final and conclusive upon a copy thereof duly certified by the secretary of the board having been recorded in the office of the county recorder of the county in which the lands affected are situate; provided, that said certified copy of such order shall not be recorded for a period of thirty days from and after the making of such order, during which thirty days a majority of the holders of title or evidence of title of the land described in the petition for inclusion and representing also more than one-half of the area of said tract or tracts of land, may file with the secretary of the board of directors a statement or statements in writing signed and acknowledged in the form required for the conveyance of real property, objecting to the inclusion of such lands with the conditions imposed thereon, whereupon said objections shall be laid before the board of directors and if the board finds the same to be in the form required by this section and signed by a majority of the holders of title or evidence of title of the tract or tracts of land described in said petition for inclusion, and also representing more than one-half of the area of land described in said petition, then the board of directors shall enter in its minutes an order dismissing said petition for inclusion and no further proceedings shall be had thereon, but such order of dismissal shall be without prejudice to the filing of another petition or other petitions for inclusion of the same land or any part thereof; and provided further, that agreeable to the laws of the United States and the proper regulations or consent of any authorized department thereof, or the laws of this State as the case may be, such conditions as the board of directors shall deem equitable and just may be imposed upon any public lands of the United States or of this State as a part of the order of inclusion without the agreement or hearing provided for in this section. (Amended, Stats. 1935, p. 84.)

Protest to Inclusion

SEC. 91. If a protest against the inclusion of such lands, signed by not less than three per cent of the holders of title or evidence of title to lands within the district and holding the tile or evidence of title to not less than three per cent in value of the lands within the district according to the last equalized assessment roll of said district, shall have been presented to the board of directors and upon the hearing of said matter said protest shall not be withdrawn, or after the withdrawal therefrom of any signatures it shall still be signed by not less than three per cent of the holders of title or evidence of title to lands within the district and holding the title or evidence of title to not less than three per cent in value of the lands within the district according to the last equalized assessment roll of said district, or if the board of directors deem it not for the best interests of the district to include therein the lands described in said petition for inclusion, or any of them, the board shall adopt a resolution stating the facts and describing the boundary of the tract of land proposed to be included in the district; but before calling the election provided for in the next section, the board may require an undertaking, with sufficient sureties, from the petitioners for the inclusion of said land conditioned that the petitioners or the sureties will pay all the costs of holding such election in case such inclusion shall be denied. (Amended, Stats. 1921, p. 1000.)

Board of Directors vs. *Peterson* (Ore.), 128 Pac. 837.

Notice of Election; Ballots

SEC. 92. Upon the adoption of the resolution mentioned in the last preceding section, the board shall order that an election be held within said district, to determine whether the boundaries of the district shall be changed as mentioned in said resolution; and shall fix the time at which such election shall be held, and cause notice thereof to be given and published. Such notice shall be given and published, and such election shall be held and conducted, the returns thereof shall be made and canvassed, and the result of the election ascertained and declared, and all things pertaining thereto conducted in the manner prescribed by said act in case of a special election to determine whether bonds of an irrigation district shall be issued. The ballots cast at said election shall contain the words ''For change of boundary,'' or ''Against change of boundary,'' or words equivalent thereto. The notice of election shall describe the proposed change of the boundaries in such manner and terms that it can readily be traced.

Election on Inclusion

SEC. 93. If at such election a majority of all the votes cast at said election shall be against such change of the boundaries of the district, the board shall order that said petition be denied, and shall proceed no further in that matter. But if a majority of such votes be in favor of such change of the boundaries of the district, the board shall thereupon order that the boundaries be changed in accordance with said resolution adoption by the board. The said order shall describe the entire boundaries of said district, and for that purpose the board may cause a survey of such portions thereof to be made as the board may deem necessary.

Election on Inclusion With Conditions Imposed

SEC. 93a. If a sufficient protest against the inclusion of any lands shall have been presented to the board of directors and maintained as provided in section 91, and the board of directors nevertheless finds and declares that the inclusion of said lands or a portion thereof with certain conditions imposed will be for the best interests of the district, the board shall proceed the same as if no protest had been filed until the conditions imposed shall become final as provided by section 90, except that the order changing the boundaries of the district with such conditions upon the lands to be included as may have been imposed shall not be recorded in the office of the county recorder and said order shall not be effective for any purpose until, as the result of an election thereon, which the board shall thereupon order as provided by section

92, it is found and declared by the board that a majority of all the votes cast at such election were in favor of said change in boundaries with the conditions named. Thereupon a certified copy of the order changing the boundaries with the conditions imposed set out therein, together with a certified copy of the order declaring the result of such election, shall be recorded as provided by section 90 and become final. The same procedure regarding such election shall be followed as provided by section 92, except that the ballot cast at such election shall contain the words "For change of boundaries with conditions" or "Against change of boundaries with conditions" and the notice of election, in addition to other requirements, shall contain a brief statement of the conditions imposed. If a majority of all the votes cast at such election shall be against such change of boundaries with conditions, the board shall order that the petition be denied. (Added, Stats. 1931, p. 2206.)

Recordation of Order of Board

SEC. 94. Upon a change of the boundaries of a district being made, a copy of the order of the board of directors ordering such change, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district, and thereupon the district shall be and remain an irrigation district, as fully, and to every intent and purpose, as if the lands which are included in the district by the change of the boundaries, as aforesaid, had been included therein at the original organization of the district, save and except that such included lands shall be and remain subject to such terms, conditions and liabilities as may have been fixed and imposed upon them by such order of inclusion.[1] (Amended, Stats. 1935, p. 84.)

Recording Petition in Minutes

SEC. 95. Upon the filing of the copies of the order, as in the last preceding section mentioned, the secretary shall record in the minutes of the board, the petition aforesaid; and the said minutes, or a certified copy thereof, shall be admissible in evidence, with the same effect as the petition.

Authority of Personal Representative

SEC. 96. A guardian, an executor or an administrator of an estate, who is appointed as such under the laws of this State, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereunto authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act mentioned, why the boundaries of the district should not be changed.

Reestablishment of Divisions and Precincts

SEC. 97. In case land is included within any district as aforesaid, the board of directors thereof shall, but not less than thirty days before any election in such district. reestablish the boundaries of the divisions and election precincts within such district, so as to include such land therein and so as to make such divisions as nearly equal in size and population as may be practicable. In case of the inclusion of any land less than thirty days before an election within such district, the inhabitants of the land so included shall not be entitled to vote at such election. (Amended, Stats. 1921, p. 861.)

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[1] The 1935 act amending section 94 contained an urgency clause.

CANCELLATION OF UNSOLD BONDS[1]

SEC. 98. Whenever the whole or any portion of any issue of bonds of any irrigation district organized or existing under the provisions of this act, including original and funding and refunding issues or any of them, shall remain unsold or unissued for more than one year after the date of the election at which such bonds were authorized, the board of directors of said district may in its discretion, by a resolution adopted by the affirmative votes of directors constituting at least two-thirds of the membership of said board, cancel all or any of said bonds so remaining unsold or unissued and all coupons attached or appurtenant thereto, and thereafter no other bonds shall be issued in pursuance of the proceedings taken in relation to the issuance of the bonds so canceled; provided, that whenever any such resolution is offered the consideration thereof shall be postponed to a date to be fixed by the board and said resolution shall be published once a week for at least two successive weeks in a newspaper published in the county in which the office of the district is located together with a notice stating the time fixed by the board for the consideration of said resolution. Any bonds and coupons so canceled shall be destroyed under the direction of said board. (Amended, Stats. 1935, p. 435.)

SECS. 99 and 99½. (These sections related to the cancellation of unissued bonds; repealed, Stats. 1935. p. 435.)

LEASE OF WATER

Authority of Board to Lease

SEC. 100. Whenever any irrigation district, heretofore organized, or hereafter organized under the provisions of this act, in the development of its works as by law provided, may have opportunity without increased expenditure, to utilize the water by it owned or controlled, for mechanical purposes not inconsistent with the provisions of said act, the board of directors may lease the same, as in this act hereinafter provided.

Procedure

SEC. 101. Whenever the board of directors may desire to lease the use of water, as hereinbefore stated, they shall pass a resolution of intention to so lease the same. Immediately thereafter the secretary shall cause notice of such intention to be given by publication in one newspaper published in each county in which lands of the district are situated, for at least twenty days (provided, a newspaper is published therein, otherwise in any newspaper the board of directors may select), and, if the board thinks proper in such other newspapers as may be deemed advisable, calling for bids for the leasing of said water for the purposes hereinbefore mentioned. Said notice shall state that the board will receive sealed proposals therefor, that the lease will be let to the highest responsible bidder, stating the time and place of opening said proposals.

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[1] Chapter 85, Statutes of 1935, which amended Section 98 and repealed sections 99, 99½, 106, 107 and 108 also contained an urgency clause.

Opening Proposals

Sec. 102. At the time and place appointed the board shall proceed to open the proposals in public. As soon thereafter as may be convenient the board shall let said lease in portions, or as a whole, to the highest responsible bidder, or they may reject any or all bids, and readvertise for proposals for the same.

Rentals

Sec. 103. The rental accruing upon said lease may vary from year to year, as shall be specified in said lease, and shall be payable semiannually, on the thirtieth day of December and thirtieth day of June of each year. All moneys collected, as in this act provided, shall be paid into the treasury, and be apportioned to such funds as may be deemed advisable.

Period of Lease; Forfeiture

Sec. 104. The board shall have power, as in this act provided, to execute a lease for any period not exceeding twenty-five years. If at any time the rental shall not be paid on the days hereinbefore mentioned, the amount of such rental then due shall be doubled, and if not paid within ninety days, thereafter, the said lease shall be forfeited to said district, together with any and all works constructed, owned, used, or controlled by said lessee.

Bond of Lessee

Sec. 105. Upon the letting of any lease, as in this act provided, the board may require the lessee to execute a bond for the faithful performance of the covenants of said lease, or give such other evidence of good faith as in their judgment may be necessary.

Secs. 106, 107, 108. (These sections provided procedure for the destruction of unsold bonds; repealed, Stats. 1935, p. 435.)

GENERAL PROVISIONS

Validity of Existing Districts and Rights Not Affected

Sec. 109. Nothing in this act shall be so construed as to affect the validity of any district heretofore organized under the laws of this State, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; but said districts are hereby made subject to the provisions of this act so far as applicable; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which it was or might become liable or chargeable had not this act been passed; nor shall it affect the validity of any bonds which have been issued but not sold; nor shall it affect any action which now may be pending.

Tulare Irr. Dist. vs. *Collins*, 154 Cal. 440, 97 Pac. 1124;
Board of Sup'rs vs. *Thompson*, 122 Fed. 860-862;
Herring vs. *Modesto Irr. Dist.*, 95 Fed. 709;
Laist vs. *Nichols*, 139 Cal. App. 202, 33 Pac. (2d) 866.

Name of District

Sec. 109a. The name of any district hereafter organized hereunder shall contain the words "Irrigation District." (Amended, Stats. 1935, p. 1555.)

See p. 150, "Change of District Name."

Effect on Prior Acts

Sec. 110. Nothing in this act shall be construed as repealing or in any wise modifying the provisions of any other act relating to the subject of irrigation or water commissioners, except such as may be contained in the act, an act entitled "an act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887, and the subsequent acts supplementary thereto, and amendatory thereof, all of which acts, so far as they may be inconsistent herewith, are hereby repealed.

Board of Sup'rs vs. *Thompson,* 122 Fed. 860.

Effective Date

Sec. 111. This act shall take effect from and after its passage and approval.

Short Title

Sec. 112. This act may be referred to in any action, proceeding or legislative enactment as "the California Irrigation District Act." (Amended, Stats. 1919, p. 669.)

Constitutionality:

Act is constitutional.

Turlock Irr. Dist. vs. *Williams,* 76 Cal. 360, 18 Pac. 379;
Board of Directors vs. *Tregea,* 88 Cal. 334, 26 Pac. 237;
In re Madera Irr. Dist., 92 Cal. 296, 28 Pac. 272, 675;
In re Central Irr. Dist., 117 Cal. 382, 49 Pac. 354;
In re Bonds of So. San Joaquin Irr. Dist., 161 Cal. 345, 119 Pac. 198;
Fallbrook Irr. Dist. vs. *Bradley,* 164 U. S. 112, 41 L. Ed. 369.

Public corporation:

Irrigation district is public corporation or *quasi* corporation.

Turlock Irr. Dist. vs. *Williams, supra;*
Central Irr. Dist. vs. *DeLappe,* 79 Cal. 351, 21 Pac. 825;
Crall vs. *Poso Irr. Dist.,* 87 Cal. 140, 26 Pac. 797;
In re Madera Irr. Dist., supra;
People vs. *Selma Irr. Dist.,* 98 Cal. 206, 32 Pac. 1047;
People vs. *Turnbull,* 93 Cal. 630, 29 Pac. 224;
Tulare Irr. Dist. vs. *Collins,* 154 Cal. 440, 97 Pac. 1124;
Bettencourt vs. *Ind. Acc. Com.,* 175 Cal. 559, 166 Pac. 323;
Turlock Irr. Dist. vs. *White,* 186 Cal. 183, 198 Pac. 1060;
People vs. *Cardiff Irr. Dist.,* 51 Cal. App. 304, 197 Pac. 389;
Lindsay-Strathmore Irr. Dist. vs. *Superior Court,* 182 Cal. 315, 187 Pac. 1056.

Validity of organization:

May not be questioned by private party.

Miller vs. *Perris Irr. Dist.,* 85 Fed. 693.

Can not be attacked collaterally.

Quint vs. *Hoffman,* 103 Cal. 506, 37 Pac. 777;
Knowles vs. *New Sweden Irr. Dist.* (Idaho), 101 Pac. 81;
Quinton vs. *Equitable Inv. Co.,* 196 Fed. 314;
Tulare Irr. Dist. vs. *Shepard,* 185 U. S. 1.

Actions by Bondholders

Sec. 113. Before an action or proceeding by the holders of bonds of an irrigation district to compel, enforce, prohibit or restrain the doing of an act by the district or the board of directors thereof may be instituted or maintained, the holders of ten per cent or more of the duly issued outstanding and unpaid bonds of the district must join in the action or proceeding as plaintiffs, petitioners or applicants for the relief sought. (Added, Stats. 1933, p. 800.)

Unconstitutional.

Selby vs. *Oakdale Irr. Dist.*, 140 Cal. App. 171, 35 Pac. (2d) 125.

GENERAL VALIDATING ACTS

Acts confirming and validating the formation or organization and existence of irrigation districts are covered by the following references: Stats. 1929, p. 159; Stats. 1931, p. 248; Stats. 1933, p. 328; Stats. 1935, p. 472; Stats. 1937, p. 359.

LAWS RELATED TO CALIFORNIA IRRIGATION DISTRICT ACT

LIABILITY OF IRRIGATION DISTRICTS

An act relating to the liability of irrigation districts, their officers and employees.

(Approved July 20, 1935.)

SECTION 1. No member of any board of directors of any irrigation district shall be liable for the negligent act or omission of any appointee or employee appointed or employed by him in his official capacity, whether such appointment or employment was made singly or in conjunction with other members of such board, and no officer or agent of any irrigation district shall be liable for the negligent act or omission of any agent or employee appointed or hired by him, except when the member or members of such board making such appointment or employment, or excepting when such agent or employee appoints or hires said subemployee or subagent, knew or had actual notice that the person appointed or employed was inefficient or incompetent to perform or render the service for which he was appointed or employed or shall retain such inefficient or incompetent person after actual knowledge or notice of such inefficiency or incompetency.

SEC. 2. Whenever it is claimed that any person or property has been injured or damaged as a result of any dangerous or defective condition of any property owned or operated and under the control of any irrigation district or its officers or employees and/or the negligence or carelessness of any officer or employee of an irrigation district, a verified claim for damages shall be presented in writing and filed with such officer or employee and the secretary of said board within ninety days after such accident or injury has occurred. Such claim shall specify the name and address of the claimant, the date and place of the accident or injury or damage and the nature and extent of the injury or damages claimed. The foregoing shall be a condition precedent to the filing or maintaining of any action for said injury or damages.

SEC. 3. In any case where an officer of an irrigation district shall be held liable for any act or omission done or omitted in his official capacity and any judgment shall be rendered thereon, the district shall pay such judgment without obligation for repayment thereof by such officer.

SEC. 4. Nothing herein contained shall be construed as creating any liability or responsibility except as provided in section 3 hereof unless the same would have existed without the passage of this act. (Stats. 1935, p. 2250.)

Osborne vs. *Imperial Irr. Dist.*, 8 Cal. App. (2d) 622, 47 Pac. (2d) 798.

CHANGE OF DISTRICT NAME

An act to provide for the change of name of irrigation districts.

(Approved April 6, 1929, Stats. 1929, p. 136.)

SECTION 1. Whenever any irrigation district in this State has been organized under the California Irrigation District Act under the same name as that of another irrigation district theretofore organized in this State, the board of directors of the last organized irrigation district shall, by a resolution duly adopted by said board, change the name of said irrigation district. Said resolution shall be spread in full upon the minutes of said board and a certified copy of the same shall be recorded in the office of the county recorder in each of the counties in which any portion of the land in such irrigation district is located, and a copy sent to the State Engineer and a copy to the California Bond Certification Commission.

IMPROVEMENT DISTRICTS WITHIN IRRIGATION DISTRICTS

An act to provide for the organization and creation of improvement districts within irrigation districts organized under the "California Irrigation District Act"; to provide for the acquisition, construction, operation, maintenance and repair of improvements therein, and for the levy of assessments on the lands of such improvement districts.

(Approved May 25, 1927, Stats. 1927, p. 1415; amended Stats. 1929, p. 343; Stats. 1931, p. 697.)

Petition to Organize District

SECTION 1. Two-thirds in number of the holders of title, or evidence of title to any tract or contiguous tracts of land situate within any irrigation district organized and existing under the California Irrigation District Act and susceptible of irrigation or being served by a domestc water supply, by a system of laterals, ditches, and pipes, or requiring a system of pumps for the irrigation thereof, or drains or drainage works for the drainage thereof, or requiring the acquisition of existing laterals, ditches, pipes, pumps or other works incidental to a water distribution system, separate and apart from or supplementary to the works of said irrigation district, or desiring a change therein or improvement thereof, or desiring maintenance of existing irrigation ditches and structures therein, or control of weeds in or along such ditches may petition the board of directors of such irrigation district to organize and create an improvement district, for the purpose of providing such means of irrigation, furnishing of a domestic supply of water, or drainage, or for the acquisition of existing laterals, ditches, pipes, pumps or other works incidental to a water distribution system for the lands described in said petition, or the said change and improvement thereof, or for maintenance of existing irrigation ditches and structures therein, or control of weeds, and for the levy of an assessment or assessments for the payment of the costs thereof. (Amended, Stats. 1931, p. 697.)

Talbot vs. *Turlock Irr. Dist.*, 217 Cal. 504, 19 Pac. (2d) 980.

Constitutionality.

Moore vs. *Thornburg*, 208 Cal. 657, 284 Pac. 218.

Similar districts in other states.

Comm'rs vs. *Shaw* (Ill.), 96 N. E. 984;
Comm'rs vs. *Boyd, etc., Dr. Dist.* (Ill.), 113 N. E. 85;
Kohl vs. *Choteau, etc., Dist.* (Ill.), 118 N. E. 999;
Gottschall vs. *Zipple* (Ill.), 140 N. E. 13.

Contents of Petition

Sec. 2. Said petition shall contain a statement of the plans of the proposed improvement or of the existing improvement, if any, proposed to be acquired, a description of the boundaries of such proposed improvement district, the names of the owners of all lands within such improvement district with their last known addresses and a description of the land owned thereby which petition shall be signed by the requisite number of landowners. A certificate of acknowledgment or proof of signature taken before a notary public or justice of the peace of any state or any acknowledgment taken according to the laws of the State of California, or an affidavit by any person in the presence of whom such petition was signed shall be sufficient evidence of the genuineness of such signature. The petition may consist of any number of separate instruments. Such petition and all proceedings in reference thereto, and the lands affected thereby, and said improvement district shall be designated by number, and the description of the parcels of land shall be according to the last duly equalized assessment book of the irrigation district, and said assessment roll shall be conclusive evidence as to the holders of title or evidence of title to said lands. Guardians, executors, administrators or other persons holding property in a trust capacity under appointment of court may sign any petition provided for in this act, when authorized by an order of court, which order may be made without notice. (Amended, Stats. 1931, p. 698.)

Survey; Preparation of Plans, Specifications and Proposed Assessment

Sec. 3. Upon receipt of such petition the board of directors of said district shall cause a survey to be made of the proposed improvement, or of the improvement proposed to be acquired and if, upon such survey, it is found that the construction of the improvement or the acquisition of the existing laterals, ditches, pipes, pumps or other works is feasible, the board shall cause to be prepared an estimate of the cost thereof, and if the proposal be for construction of an improvement, the board shall also cause to be prepared plans and specifications of the improvements. In either case, the board shall cause to be prepared a statement and assessment of the amount of such costs apportioned to each tract of land in said improvement district, as said tracts of land are shown upon the last equalized assessment book of the district according to the benefits that will accrue to each of said tracts of land in said improvement district respectively, by reason of the expenditures of said sums of money for said improvements or acquisition. Said board of directors of said irrigation district are hereby designated and constituted a board of assessment commissioners to levy and apportion said assessment. Said petition, plans, specifications and proposed assessment shall be filed in the office of said district and shall be subject to the inspection of all parties interested. (Amended, Stats. 1929, p. 344.)

Alternative Method of Forming Special Assessment District

SEC. 3a. As an alternative procedure to that provided in this act for the institution of proceedings to create a special assessment district within an irrigation district organized and existing under the California Irrigation District Act for the purpose of the construction of improvements therein, or the acquisition, installation, replacement or extension of existing laterals, ditches, pipes, pumps, or other works for the production and distribution of water where the cost thereof shall not exceed in total the sum of $5,000 and the area of the land to be included in such special assessment district shall not exceed in total 100 acres, the board of directors of any irrigation district organized and existing under the California Irrigation District Act may, by resolution adopted by a majority of its members, cause a survey of the proposed improvement to be made, such survey to contain detailed plans and specifications thereof and estimates of the total cost of such improvement and a description of the lands to be benefited thereby, and in the event that the cost of such improvements does not require a special assessment in excess of a total of $50 per acre over an area to be improved not in excess of 100 acres, said board of directors may, by resolution adopted by a majority of its members, set a time for a hearing at which the owners of the property proposed to be included within such special assessment district, may be heard either in opposition to or support of the formation of such special assessment district. Said board shall give notice of the time and place of such hearing in the same manner as herein provided for the giving of notice for the hearing of a petition of property owners, except that the notice to be mailed shall be addressed to the property owners at their last known address as shown on the assessment roll or other records of the district. Proceedings at such hearing shall be the same as is provided in this act for a hearing upon the petition of property owners and upon the conclusion of such hearing an order shall be issued by said board, either dismissing such proceedings or ordering the improvement to proceed, as provided in sections 5 and 6 of this act. In the event an order is made to proceed with the proposed improvement said lands to be affected thereby, as determined at said hearing, shall thereafter, for a period not to exceed five (5) years, be assessed in an amount not to exceed $10 per acre in addition to the regular assessments levied thereon annually for irrigation district purposes, such special assessments to be levied and collected at the same time and in the same manner as the annual assessments for irrigation district purposes and to be enforced against the property in the same manner as the annual assessments for irrigation district purposes, as provided in the California Irrigation District Act. The cost of the improvement for which such special assessments are levied may be paid immediately, either from the general funds of the irrigation district or from any special or construction fund available for such purposes, the moneys so advanced to be returned to such fund from the collection of the special assessments herein provided. The proceedings provided by this section shall be alternative and supplemental to the proceedings provided in this act, and, except as herein expressly provided, shall be in all respects conducted in accordance with the other sections of this act. (Added Stats. 1937, p. 110.)

Notice of Hearing Upon Petition and Proposed Special Assessment

SEC. 4. After filing such plans and specifications, if any, and of said estimate, statement and assessment, said board shall give notice of a hearing upon said petition and whether a special assessment shall be levied upon the lands within said improvement district for the purpose of raising money to pay for such improvements, as set forth in such petition, plans, specifications, statement and assessment, notice of which hearing shall be given by posting a notice thereof in three public places within said proposed improvement district, the publication of such notice once a week for two weeks in some newspaper published in the county in which the office of said irrigation district is situated, and mailing a copy thereof to the last known address of all of the owners of said lands in said improvement district, as such address appears in said petition. Such notice shall be posted and mailed not less than twenty days prior to the date set for said hearing. (Amended, Stats. 1929, p. 344.)

Hearing; Modification of Petition; Change of Boundaries

SEC. 5. At said hearing said board shall hear such objections to the said petition and to the formation of said improvement district and its boundaries, and to to the said plans, specifications and estimates, and to said proposed assessment and the apportionment thereof as may come before them and at such hearing shall make such changes in reference thereto as they may consider proper. The board may exclude any part or portion of the lands described in said petition from said improvement district, and may include additional lands; provided, however, that if any additional lands are included therein, the hearing of said petition shall be continued and the owners of said added lands be given not less than twenty days personal notice of the addition of such lands to said improvement district. If more than one-third in number of the holders of title or evidence of title of lands within said improvement district shall object, at said hearing, to the formation of said improvement district and the levy of said proposed assessment, said board of directors shall deny said petition and no further proceedings shall be had thereon.

Order Creating District and Levying Special Assessment

SEC. 6. If at said hearing said board of directors shall determine and find that it would not be to the best interests of said irrigation district and improvement district to proceed with such improvement, or to acquire such improvements or to organize said improvement district for any of the purposes set forth in this act, then said board shall order said proceedings dismissed without prejudice to the renewal thereof. If, however, said board shall determine and find that it would be to the best interests of said irrigation district and said improvement district to proceed with such improvement, or the acquisition of such improvements or be organized for any of the purposes set forth in this act, they shall make a final order to be entered in the minutes of said board, approving said petition, creating said improvement district, levying said assessment, if such assessment is necessary for said purposes, and apportioning the same to the said lands according to benefits, which said assessment shall include a sum that shall equal interest on any deferred payments at a rate of not to exceed seven per cent per annum, and ten per cent additional for anticipated delinquencies. Said order shall contain a description of the boundaries of said improvement district, and the secretary of the board shall cause a certified copy thereof to be recorded in the office of the county recorder in each county in which any of said lands of said improvement district are located. Said assessment may be made payable in not to exceed ten annual installments and the board of directors of said irrigation district shall, at the time of the levy of the annual assessment of said district, add to the amount of the annual assessment levied upon said lands within said improvement district, such amount for which they may be liable by reason of the levying of said improvement district assessment, and if said annual irrigation district assessment is made payable in two installments then said improvement district assessment or the installment thereof shall likewise be made payable in two installments. Said improvement district assessment, and each installment thereof, shall be and remain a lien on said lands in the same manner as and be a part of the annual assessment of said irrigation district. At any time before the warrants provided for in section 7 of this act have been issued, the amount of any such assessment, exclusive of interest and the ten per cent added for anticipated delinquencies, may be paid in cash and such land shall thereafter not be subject to the annual assessments levied thereon for the purposes of the said improvement or acquisition; provided, however, that such lands shall be and remain liable for any assessments levied thereon for maintenance and operation and for any supplementary or additional assessments levied thereon under the provisions of this act. (Amended, Stats. 1931, p. 698.)

Issuance of Warrants for Amount of Assessment

Sec. 7. Said irrigation district shall have power to issue warrants signed by the president and secretary of the board of directors of said irrigation district, in face amount not exceeding in the aggregate the cost of said improvement and/or acquisition, exclusive of interest and the ten per cent added for anticipated delinquencies, which warrants shall be made payable in amounts and at the times corresponding substantially to the amounts and times of payments of the installments of said improvement district assessment, and shall bear interest at such rate of interest as may have been fixed on the levy of said improvement district assessment. Coupons for the interest on said warrants may be attached thereto which may be made payable semiannually. Said warrants may be made payable to bearer or to persons furnishing work, labor or material, or if said work of improvement is done under contract as hereinafter provided, then to such contractor. Said warrants may be sold by the board of directors of the irrigation district for not less than par at either public or private sale. Said warrants shall be payable only out of funds derived from the levy and collection of said improvement district assessment on said lands, and shall be used solely for the acquisition or construction of the improvement for the acquition or construction of which the improvement district shall have been organized, and the necessary incidental expenses. The board of directors of said irrigation district may, in their discretion, invest in such improvement district warrants any money held by such district in sinking or depreciation funds. Any landowner of the improvement district who shall desire at any time to lessen or remove the lien upon his land of any improvement district assessment on which warrants have been or hereafter may be issued, may deliver to the district treasurer for cancellation warrants payable out of said assessment, and the treasurer shall credit against the assessment on his land the principal and interest of said warrants; provided, however, that the board of directors of said district may require that such warrants so delivered and canceled shall be substantially of the average maturities of such issue of warrants. (Amended, Stats. 1931, p. 699.)

Performance of Improvements

SEC. 8. The said work of improvement provided for in this act and the purchase of all necessary supplies, material and equipment therefor shall be performed and done by said irrigation district or in the discretion of the board of directors bids may be received for said work and material after such notice calling for bids as the board of directors may prescribe; provided, however, that the cost thereof shall be paid only out of assessments levied upon and collected from the said lands in said improvement district. (Amended, Stats. 1931, p. 700.)

Additional and Supplemental Assessments; Inclusion of Lands; Dissolution

SEC. 9. If said improvement district desires to do additional work or acquire additional property at any time upon the petition of two-thirds in numbers of the holders of title or evidence of title to said lands in said improvement district, an additional assessment, or assessments, may be levied substantially in the same manner as on the original assessment. If at any time it is desired that additional lands be included in said improvement district, a petition for such inclusion signed by the owners of such lands to be included and by two-thirds in number of the holders of title or evidence of title of lands in said improvement district, may be filed with the board of directors of said irrigation district, and the same proceedings had as upon the original petition for the organization of said improvement district. Said petition shall describe the boundaries of said improvement district as enlarged by such inclusions, and give the names and addresses of the owners of said lands in substantially the same manner as in said original petition. Should the assessments levied upon said lands in such improvement district be insufficient to pay in full the cost of such improvements or to pay the warrants issued for said improvements, an additional and supplemental assessment shall be made and levied upon all of said lands sufficient to pay said cost of said warrants in full, and the procedure followed in making such additional and supplemental levy of assessment shall be substantially the same as the levy of the original assessment, but without the necessity of a petition. If the proceeds from said assessment so levied shall exceed the final amount necessary for such purposes, said lands so paying said assessment shall be entitled to a credit in said excess amount upon the succeeding district annual assessment or assessments levied upon such land.

At any time prior to the incurring of any indebtedness or upon the full payment of all indebtedness of such improvement district, a petition signed and acknowledged by not less than the number of the holders of title, or evidence of title to the tracts of land constituting such improvement district required to organize such improvement district, may be filed with the board of directors of such irrigation district requesting that such improvement district be dissolved. A hearing shall be had in the same manner and after the same notice as is required for the organization of such improvement district, and the board of directors may, after such hearing, order such improvement district dissolved, which order shall be recorded in the same manner as the order organizing such improvement district.

Upon a change or resubdivision upon the assessment book of the irrigation district of any parcel of land within such improvement district, the board of directors, upon a petition of the owner or owners of such parcel of land so changed or resubdivided, may reapportion the improvement district assessment upon such parcel of land, and the order of such reapportionment shall be recorded in the same manner as the order levying the original assessment. (Amended, Stats. 1931, p. 700.)

Powers of Board of Directors and Officers

Sec. 10. Said board of directors and all other officers of said irrigation district shall have all the rights, powers and privileges concerning said improvement district, and lands thereof and the proceedings herein provided for, as such board may have concerning the irrigation district, of which it is a part, and including the right of said district, to condemn lands and to acquire, own and hold property within said improvement district. Said board of directors may also hold property either real or personal, used or acquired in said improvement in the name of said directors, and their successors in office, as trustees for such improvement district.

Said board of directors may allow, on such terms as may be agreed upon, any corporation, association, firm, or individual, to carry water through any canal, ditch, or conduit, for the improvement or acquisition of which the improvement district was organized, and may cancel the right for such use in the event that payments therefor are not made in accordances with the terms agreed upon. (Amended, Stats. 1931, p. 701.)

Annual Assessment for Operation and Maintenance

Sec. 11. The board of directors of said irrigation district may include in the annual assessment, provided for by section 39 of the California Irrigation District Act, levied upon the lands in said improvement district, such additional amount as they may consider necessary for the operation, maintenance and repair of the canals and works of such improvement district for the ensuing year, and such funds when collected shall be deposited and kept in a separate fund for the benefit of such improvement district to be used for said purposes and shall be disbursed only upon warrants drawn upon said fund authorized and issued in the same manner as other warrants of such irrigation district. (Added, Stats. 1929, p. 347.)

Water Tolls in Lieu of Assessments

Sec. 12. The board of directors of said irrigation district may, in lieu (either in whole or in part) of levying assessments for the operation, maintenance and repair of the canals and works of such improvement district, fix and collect rates of tolls or charges for the use of water or any other public use within the improvement district under the same conditions provided for similar tolls and charges in irrigation districts by sections 18, 39f and 55 of the California Irrigation District Act and such tolls and charges when collected shall be deposited and kept in a separate fund for the benefit of such improvement district to be used for said purposes and shall be disbursed only upon warrants drawn upon said fund authorized and issued in the same manner as other warrants of said irrigation district. (Added, Stats. 1929, p. 348.)

Short Title

SEC. 13. This act shall be known and may be referred to in any action, proceeding, or legislative enactment, as the "Irrigation District Improvement Act." (Added, Stats. 1929, p. 348.)

Saving Clause

SEC. 14. If any section, subdivision, clause, or phrase of this act be for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act, and the Legislature hereby declares that it would have passed this act and each and every other section, subdivision, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subdivisions, sentences, clauses, or phrases of this act be declared unconstitutional. (Added, Stats. 1929, p. 348.)

Decision of Board Final; Limitation of Actions

SEC. 15. All actions, proceedings, conclusions and findings of fact of a board of directors of an irrigation district concerning an improvement district therein and the levying of assessments on the lands thereof shall be conclusive and final, and no action shall be brought or maintained concerning or attacking the same, unless such action is instituted within six months after such actions, proceedings, conclusions or findings were had and made or said assessments levied. (Added, Stats. 1931, p. 702.)

Action to Determine Validity of Assessments and Warrants

SEC. 16. The board of directors of the irrigation district in which said improvement district is located may, at any time after the levy of any assessment or the issuance of any warrants herein provided for, bring an action to determine the validity of such assessment or the issuance of such warrants in the same manner and with the same effect as provided for in sections 68 and 71 of the California Irrigation District Act for the determination of the validity of irrigation district bonds and assessments. (Added, Stats. 1931, p. 702.)

Defects Not Affecting Substantial Rights to Be Disregarded

SEC. 17. No irregularity, error, informality or ommission not affecting the substantial rights of the landowners within an improvement district shall affect the validity of any act done or proceeding taken under the provisions of this act. (Added, Stats. 1931, p. 702.)

IMPROVEMENT DISTRICT VALIDATING ACTS

Acts validating the proceedings for the formation of improvement districts within irrigation districts and all assessments heretofore made and warrants heretofore issued are covered by the following references: Stats. 1931, p. 46; Stats. 1933, p. 513; Stats. 1935, p. 867; Stats. 1937, p. 359.

IMPROVEMENT DISTRICT REFINANCING ACT OF 1937

An act providing ways and means for liquidating, refinancing and readjusting defaulted bonds and warrants secured by, or payable out of proceeds derived from, special assessments and special taxes; for judicial proceedings to carry out such purpose; for the confirmation of plans for liquidation, refinancing and readjustment; authorizing the exercise of the police power and the power of eminent domain; for the acquisition and cancellation of such obligations of such bonds and warrants held by persons not accepting such plan; declaring an emergency and the urgency hereof and providing that this act shall take effect immediately.

(Approved July 1, 1937, Stats. 1937, p. 1876.)

Existence of Emergency

SECTION 1. Legislative Statement and Declaration of Fact. The Legislature of the State of California does hereby find, determine and declare to exist a state of emergency affecting the peace, health, safety and comfort of the people caused by and resulting from the lack of a practicable means by which bonds and warrants secured by, or payable out of proceeds derived from special assessments and special taxes may be liquidated, refinanced or readjusted, and that such emergency arises out of the following facts, to wit: That many bonds and warrants secured by, or payable out of proceeds derived from, special assessments and special taxes were issued during a period of rapid expansion and inflated values; that during the period of world-wide depression the payment of both principal and interest of such bonds and warrants went into default and that mounting defaults of said obligations have resulted in the case of obligations payable out of proceeds derived from ad valorem assessments in the pyramiding of assessments to the point of confiscation. Ever increasing delinquencies and inability to dispose of lands foreclosed or sold for the enforcement of the delinquent special assessments and special taxes caused a condition of chaos to the State with the result that many of the laws providing for the issuance of such bonds and warrants have been repealed and, to enable the undertaking of the refinancing and refunding of such obligations, several refunding acts have been enacted by the Legislature. That the Legislature adopted these refunding acts contemplating that, by the operation of ordinary economic processes, agreements providing for the adoption of refinancing plans would be approved by the holders of such bonds and warrants pursuant to the provisions of said refunding acts before all values within the special assessment and special taxing districts should be destroyed; that after the passage of said acts proceedings were commenced to work out refinancing plans with bondholders; that many such refinancing plans have heretofore been accepted by an overwhelming majority of bondholders and proceedings were contemplated under section 80 of the National Bankruptcy Act, as amended, to compel acceptance of such refinancing plans by small minority groups of dissenting bondholders; that the Supreme Court of the United States recently held that said section of the Bankruptcy Act is unconstitutional in that it infringes upon the sovereignty of the states. That as a result of this decision there is now no legal procedure or means by which the refunding of such bonded and warrant indebtedness may practicably be consummated. Due to the accumulation of delinquent taxes and assessments with penalties and interest thereon and, in cases of ad valorem assessments, the pyramiding of such assessments, any present attempt to levy or enforce assessments or taxes designed to meet such bonds and warrants in full would result in overwhelming delinquencies, would prove largely uncollectible, would raise no adequate funds for bond or other debt service, and would be of no benefit to bondholders or warrant holders. That unless these existing chaotic conditions are remedied, in each succeeding year an ever increasing body of lands will default in payment of assessments and will remain unredeemed therefrom. That in the case of ad valorem assessment districts, the assessment in each succeeding year will fall upon a progressively lessening body of land which in turn will be forced to default in greater and greater quantities. That such inevitable and wholesale conditions of default will not result in the payment of the bonds or warrants but directly or indirectly will result in the removal of the lands from the tax rolls by reason of the sale thereof to the State or a municipal corporation for the delinquent taxes and assessments, all to the injury of the State of California, counties, cities and counties, municipal and public corporations and other taxing agencies in this State dependent for their revenues upon the taxation of lands, to meet their obligations and to carry on their activities. That by reason of the fact that the total outstanding tax and assessment burden on the defaulted lands will largely exceed the market value thereof, but a small portion of the amount of such special assessments or special taxes would be realized on the foreclosure or sale of such lands to enforce such special assessments and special taxes. That on the other hand if refinancing plans now under way and accepted by overwhelming majorities of the holders of the bonds and warrants affected, bondholders and wararnt holders will be benefited, land subject to the special assessments and taxes will remain in private ownership, values will be restored and the lands against which the special assessments and taxes are outstanding will remain upon the current tax rolls. That these matters are of vital State interest and concern; that the welfare of the State, the solvency of its banking institutions and the interest of property owners, counties, cities and counties, municipal and public corporations and other public agencies dependent for their revenues upon the taxation of lands and the creditors thereof all require the speedy settlement and adjustment of these defaults. Therefore, to meet this condition of emergency the police power and the power of eminent domain are hereby invoked and the institution and maintenance of the proceedings and actions hereinafter set forth are hereby declared to be for public purposes, for the preservation of government, the protection of the holders of such bonds and warrants and of property owners to the end that the State shall aid and assist in the solution and settlement of these grave economic and financial difficulties by providing ways and means for the liquidation, refinancing and readjustment of such bonds and warrants, as hereinafter set forth. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution and shall therefore go into effect immediately. A statement of the facts constituting such necessity is as hereinbefore set forth in this section.

Definitions

SEC. 2. Definitions, etc. The term ''district improvement act'' as herein used refers to any act providing for the issuance of bonds or warrants secured by or payable out of proceeds derived from special assessments or special taxes, including, without in anywise limiting the generality of the foregoing, the Drainage District Improvement Act of 1919 (Stats. 1919, page 713, and any and all amendments thereto), Municipal Improvement District Act of 1927 (Stats. 1927, page 1351, and any and all amendments thereto), Road District Improvement Act of 1907 (Stats. 1907, page 806, and any and all amendments thereto), Acquisition and Improvement Act of 1925 (Stats. 1925, page 849, and any and all amendments thereto), and also the so-called Improvement Bond Act of 1915 (Stats. 1915, page 1441, and any and all amendments thereto), and the so-called Municipal Improvement District Act of 1915 (Stats. 1915, page 99, and any and all amendments thereto), and the so-called Improvement Act of 1911 (Stats. 1911, page 730, and any and all amendments thereto), and also Stats. 1921, page 1658, and any and all amendments thereto.

The term ''special assessment district'' as herein used refers to a taxing or assessment district formed, created or delineated under any district improvement act.

The term ''governing body'' as herein used refers to the legislative body of any county, city and county, municipal or public corporation.

For the purposes of this act, bonds and warrants secured by, or payable out of proceeds derived from, special assessments or special taxes levied upon or to be levied upon real property or real and personal property in a special assessment district shall be deemed to be bonds and warrants of, and issued by, such special assessment district. The governing body, which shall have or before which there shall have been commenced or instituted the proceedings for the issuance of the bonds or warrants or for the creation or formation of the special assessment district which issued the bonds or warrants, shall act and proceed under the act on behalf of such special assessment district and of the owners of property therein.

Application

SEC. 3. Application. Any outstanding bonds or warrants, or both, or any class or classes thereof issued under any district improvement act and in default as to payment of principal or interest, or both. for a period of not less than three years may be liquidated, refinanced or readjusted as hereinafter provided.

Acceptance of Plan

SEC. 4. Acceptance of Plan. Proceedings under this act shall be instituted, except as hereinafter provided, by the adoption of a plan of liquidation, refinancing or readjustment of the bonds and warrants by the governing body which shall have or before which there shall have been commenced or instituted the proceedings for the issuance of the bonds or warrants or for the creation or formation of the special assessment district, the bonds or warrants of which are to be liquidated, refinanced or readjusted under the plan. Such plan shall have been theretofore accepted in writing or by contract by the holders of not less than two-thirds in principal amount of each class of the bonds or warrants affected thereby. For the purpose of accepting such plan and for all other purposes of this act, any holder of any such bond or warrant may act in person or by a duly authorized agent or committee. Such plan may provide for cash payments to the holders of bonds and warrants affected thereby or include provisions modifying or altering the rights of such holders either through the issuance of new securities of any character, or otherwise, and may contain such other provisions or agreements not inconsistent with the act as the parties may desire. No bondholders or warrant holders shall be deemed to be affected by the plan (a) whose bonds or warrants are not affected by the plan, or (b) if the plan makes provision for the payment of his bonds or warrants in cash in full.

Filing of Petition

SEC. 5. Filing of Petition. The governing body adopting such plan shall file or cause to be filed a verified petition setting forth the matters hereinafter specified in the superior court of the State of California in and for the county in which the special assessment district, which issued the bonds or warrants to be liquidated, refinanced or readjusted under the plan, or the major portion of such special assessment district, is located. Such verified petition shall set forth that the bonds or warrants have been in default for a period of more than three years and that sufficient funds to meet such default are not available and can not be collected by the enforcement or levy of special assessments or special taxes securing the bonds or warrants or out of the proceeds of which the bonds or warrants are payable; that the special assessment district which issued the bonds and the owners of property therein desire to effect the aforesaid plan, which said plan is to be filed and submitted with the petition or described therein, and which said plan has been accepted by holders of bonds and warrants as above mentioned; that such special assessment district desires to avail itself of the relief and remedies provided for by this act, and containing such other allegations as may be deemed material. Such petition shall be accompanied by a certified copy of the resolution of such governing body, together with a list of all known holders of bonds or warrants of said district to be liquidated, refinanced or readjusted, as aforesaid, with their addresses so far as known to such governing body, and a description of their respective claims, so far as is known, which said list shall further show separately those holders of bonds and warrants of said district who have and who have not accepted the plan.

Automatic Stay

SEC. 6. Automatic Stay. Plan Temporarily in Effect. The filing of such petition shall operate automatically to enjoin and stay, pending final determination of the proceedings as herein set forth, the commencement or continuance of suits or proceedings which would interfere with or prevent the carrying out of the plan and shall also operate automatically to enjoin and stay the enforcement of any lien or the levy of assessments except in so far as is consistent with and in furtherance of such plan. The court in which such petition is filed shall have exclusive jurisdiction with respect to all suits, actions and proceedings on account of the indebtedness proposed to be liquidated, refinanced or readjusted by such plan or to enforce any lien or the levy of any assessments for the payment of such indebtedness and all matters incidental and collateral thereto and it shall be deemed that such plan is temporarily in full force and effect. It is hereby found and declared that proceedings for, or the issuance or enforcement of, a writ of mandate or other actions or proceedings to enforce any lien or to enforce the levy of assessments for the payment of such indebtedness, other than as provided in such plan, would, during the pendency of such proceeding, result in disorder and confusion and destruction of joint relative and correlative rights of bondholders or warrant holders affected by such plan and injury of third persons.

Notice of Hearing

Sec. 7. Notice. Upon the filing of any such petition the court shall set a time and place for the hearing thereof not less than ninety days thereafter and notice of such hearing shall be given as follows: Not less than thirty days' written notice of the time and place of hearing shall be personally served upon all known holders of bonds and warrants affected by the plan who are residents of the State of California and who have not theretofore accepted such plan in writing and who can be located by due diligence for such service. If such nonaccepting holders are nonresidents of the State of California but are represented in mandamus suits or other litigation relating to said bonds or warrants pending in said county or in any court of California, or in the Federal courts of California, such notice may be served upon any attorney of record representing such nonresident holders and such service shall be deemed as effective as if made on such holders themselves. As to all nonaccepting holders resident or nonresident in the State of California and not personally served, such governing body shall publish such notice of hearing in a newspaper of general circulation published in the county in which such petition is filed at least once a week for eight successive weeks, the last publication to be not less than thirty days prior to the date set for the hearing. Such notice shall also be mailed at least thirty days prior to the date set for the hearing to each nonaccepting bondholder, postage prepaid, to his last address known to such governing body. The notice shall set forth the name of the special assessment district, the bonds or warrants of which are to be liquidated, refinanced or readjusted under the plan, and shall state that a petition has been filed for the approval of a plan to liquidate, refinance and readjust the bonds or warrants of such special assessment district; it shall give the name of the court and place where such action or proceeding is pending; shall state the plan generally; that it is submitted under this act; and that it has been accepted by the holders of at least two-thirds in principal amount of each class of the bonds or warrants to be liquidated, refinanced or readjusted, shall refer to the petition on file and to this act for further particulars and shall state the time and place when said petition shall come on for hearing.

Previously Accepted Plans

SEC. 8. Plans Heretofore Accepted by Creditors and the Special Assessment District. In any case meeting the requirements of sections 3 and 4 hereof and where prior to the effective date of this act the plan as therein provided has been accepted in writing by the holders of not less than two-thirds in principal amount of each class of the bond or warrant indebtedness affected thereby and by the governing body therein referred to, proceedings under this act may be directly instituted, for all purposes hereof and without further proceedings, by the filing by such governing body of a petition in the form provided in section 5 hereof but also alleging that the plan submitted therewith was accepted as in this section provided.

Hearing on Plan

SEC. 9. Hearing on Plan. Interlocutory Judgment Confirming Plan. Dismissal. At the time and place set by the court the hearing upon such plans shall be held by said court. Said hearing may, in the discretion of the court, be continued from time to time. At any time prior to such hearing any bond or warrant holder affected by the plan may file an answer to the petition accepting the plan or controverting any of the material allegations of the petition and setting up any objections to the plan. Upon the hearing the rules and laws of practice, procedure and evidence in civil actions generally shall prevail. The court shall hear the petition and such answers or objections as may be filed and such competent and material evidence as may be offered. At the conclusion of the hearing the court shall make written findings of fact, and its conclusions of law thereon and shall enter an interlocutory judgment confirming the plan if satsified that (1) it is fair, equitable and for the best interests of the bond and warrant holders affected thereby; (2) complies with the provisions of this act; (3) has been accepted or approved in writing or by contract by the holders of not less than two-thirds in principal amount of each class of the bonds or warrants affected thereby as provided in section 3 hereof; (4) the offer of the plan and its acceptance are in good faith; and (5) the special assessment district which issued the bonds or warrants is authorized, or the governing body which adopted the plan is authorized on behalf of such special assessment district, by law to take all actions necessary to be taken to carry out the plan. If not so satisfied as above provided, the court shall enter a judgment dismissing the proceeding. In determining whether the plan is fair and equitable as hereinbefore provided, the court shall take into consideration, together with all other relative data, whether rights and remedies of the holders of the bonds or warrants affected by the plan are inefficacious, uncertain or futile and whether the plan is based substantially on the measure of the ability of the district to pay. Any interlocutory judgment confirming said plan shall be conclusive evidence (a) of the public necessity of the acquisition by such district as hereinafter provided of bonds or warrants owned by holders not accepting such plan, (b) that the acquisition of such bonds or warrants is necessary for the purposes of this act and (c) that such acquisition is planned in the manner which will be compatible with the greatest public good and the least private injury.

Changes in Plan

SEC. 10. Changes. Amendments and Modifications of the Plan. Before a plan is confirmed, changes, amendments and modifications may be made in the plan with the consent of bond or warrant holders who have already accepted it or, with the approval of the court after hearing, upon such notice to bond or warrant holders affected as the court may direct. All changes, amendments or modifications shall be subject to the right of any bond or warrant holders who shall previously have accepted the plan to withdraw his acceptance within a period to be fixed by the court and after such notice as the court may direct, if in the opinion of the court, the amendment, change or modification will be materially adverse to the interest of such bond or warrant holder. If any bond or warrant holder having such right of withdrawal shall not withdraw within such period, he shall be deemed to have accepted the plan as amended, changed or modified; provided, however, that the plan as amended, changed or modified shall comply with sections 3 and 4 of this act and shall have been accepted in writing by the governing body which adopted the plan, as set forth in section 4. If an interlocutory judgment confirming the plan is entered, the court may prescribe a reasonable time and conditions for the delivery of the money, securities or other consideration to the bond or warrant holders under the terms of the plan and may, from time to time, allow additional time for such delivery or may provide for the deposit of the money, securities or other consideration within such time or extension thereof with such depositary or disbursing agent as the court may appoint.

Determination of Value of Bonds or Warrants of Nonaccepting Holders

SEC. 11. Determination of Value and Acquisition and Cancellation of Warrants or Bonds of Nonaccepting Holders. At any time prior to the entry of the interlocutory judgment as hereinbefore provided, any holder of bonds or warrants affected by said plan may file written acceptance of such plan and thereupon shall be entitled to all of the benefits thereof. Upon rendition of the interlocutory judgment, all holders of bonds or warrants affected by the plan who shall not theretofore have accepted the plan, shall be deemed to be and will be hereinafter referred to as ''nonaccepting holders'' and thereafter they shall have no right to accept said plan or to avail themselves of any rights thereunder. Upon rendition of said interlocutory judgment, the court shall continue the proceeding for final hearing with respect to the value of the bonds or warrants of the nonaccepting holders as hereinafter provided. At the time set for final hearing the court shall hear such competent and material evidence as may be offered and shall proceed to determine and fix the actual value of the bonds or warrants held by nonaccepting holders and each of them respectively. Such value shall be determined by a jury unless waived by the governing body which adopted the plan and the nonaccepting holders, the value of whose bonds or warrants is being fixed and determined. The value shall be fixed and determined as of the date of the filing of the petition and shall be fixed and determined in view of all the rights and remedies available to the bond and warrant holders affected if their obligations were not liquidated, refinanced or readjusted and if they were relegated to their legal and equitable rights and remedies under their bonds or warrants. The intent of the Legislature herein is that the nonaccepting bond or warrant holder shall receive the full cash value of his bonds or warrants fixed and determined by conditions as they would be if the district indebtedness were not liquidated, refinanced or readjusted according to the plan approved by the court, but such values shall not be enhanced or increased by reason of any value given to bonds or warrants held by nonaccepting holders by reason of the fact that two-thirds or more in principal amount of the holders of bonds or warrants affected by the plan have agreed on a plan of liquidation, refinancing or readjustment or that the court has confirmed the same or that said plan has already been carried into effect in whole or in part as to accepting bond or warrant holders, or any of them. Evidence concerning the market value of the bonds and warrants affected by the plan and the price at which they were sold on the market, and otherwise, prior to the adoption by the special assessment district of the plan, and for a reasonable time before and after such date shall be admissible.

Judgment of Acquisition

SEC. 12. Judgment of Acquisition, Cancellation and Condemnation. After determining the value of the bonds or warrants owned by the nonaccepting holders as aforesaid, the court shall enter a judgment of acquisition, cancellation and condemnation by or on behalf of the special assessment district which issued them, of all bonds or warrants of nonaccepting holders for the price and at the value fixed and determined as aforesaid. After entry of the judgment as in this section provided, the governing body which adopted the plan on behalf of the special assessment district which issued the bonds or warrants may deposit with a depositary or disbursing agent appointed by the court for the respective nonaccepting holders of bonds or warrants, the full appraised value of such bonds or warrants as fixed and determined in said judgment, together with interest at the rate of seven per cent (7%) per annum from the date of such judgment to the date of deposit in lawful money of the United States and thereupon it shall be deemed that said bonds or warrants owned by such nonaccepting holders have been finally acquired and condemned by and on behalf of said special assessment district and are canceled and extinguished. Any nonaccepting bond or warrant holder may at any time withdraw the money so deposited with the depositary or disbursing agent in cancellation of his bonds or warrants respectively upon surrender to such depositary or disbursing agent of such bonds or warrants; provided further, that said governing body on behalf of such special assessment district must on demand of any nonaccepting bond or warrant holder deposit with such depositary or disbursing agent within not less than three months from the date of entry of the judgment provided for in this section, the full amount fixed by such judgment for such nonaccepting bondholder, together with interest as aforesaid, on condition that said holder's demand shall be accompanied by tender for cancellation of the bonds or warrants referred to in demand; and provided further, that in any event such governing body on behalf of such special assessment district must, within three months after the judgment provided for in this section shall have become final, deposit with the depositary or the disbursing agent appointed by the court the sums of money fixed and determined by such judgment for all nonaccepting holders of bonds or warrants respectively, together with interest as aforesaid.

Binding Effect of Plan

Sec. 13. Binding Effect of Interlocutory Judgment and Judgment Fixing Value of Bonds or Warrants of Nonaccepting Holders. The plan when confirmed by interlocutory judgment as provided in section 9 hereof shall be binding upon the special assessment district and all holders of bonds or warrants who have accepted the same as herein provided and the special assessment district and such accepting bondholders shall have no other or different rights with respect to their bonds or warrants than are provided in such plan and the interlocutory judgment confirming the same. From and after the entry of the judgment provided for in section 12 hereof, the nonaccepting holders shall have no right other than to receive the cash value fixed for their bonds or warrants respectively, together with interest as hereinbefore provided.

Cancellation of Bonds or Warrants

Sec. 14. Procedure After Disbursement to Nonaccepting Holders. After there has been deposited with the depositary or disbursing agent appointed by the court the value of the bonds or warrants of the nonaccepting bond or warrant holders respectively, as hereinbefore provided, and after any nonaccepting bond or warrant holder has received the value of his bonds or warrants as fixed by said judgment aforesaid, together with interest as aforesaid, by delivering such bonds or warrants to such depositary or disbursing agent, such bonds and warrants shall thereupon be delivered by such depositary or disbursing agent to the governing body which adopted the plan for cancellation on behalf of the special assessment district. Any funds deposited with the depositary or disbursing agent, as hereinabove set forth, and not paid to nonaccepting bond or warrant holders hereunder, shall remain with such depositary or disbursing agent for five years after said judgment has become a finality and thereupon if not paid out as hereinbefore provided shall be returned to the governing body which adopted the plan as unclaimed and the bonds or warrants represented thereby shall be deemed extinguished and canceled, and such governing body shall hold such funds for the account of the special assessment district which issued the bonds.

Expenses and Borrowings

Sec. 15. Expenses. Borrowings. The special assessment district shall pay all fees and other expenses in connection with the proceedings, including fees and expenses of the depositary or disbursing agent referred to in section 12 hereof, and the governing body which adopted the plan shall provide for the payment of such fees and expenses. The amount of payments to nonaccepting holders and the amount of such fees and expenses may be borrowed, as hereinafter provided in this section, or may be withdrawn from any available funds belonging to the special assessment district or held for the payment of its obligations or realized from the levy, enforcement or collection of any special taxes or assessments on the property within the special assessment district, or in any other manner provided by law.

In order to fully carry out the purposes of this act, the governing body which adopted the plan is hereby authorized to borrow from accepting holders of bonds or warrants, or otherwise, on behalf of the special assessment district on such terms as may be agreed upon and approved by the court, any or all funds needed for the purpose of deposit for compensation to nonaccepting holders and any and all fees and expenses in connection with the proceedings which the special assessment district is required to pay, as above provided. Such borrowings shall be payable out of any available funds belonging to the special assessment district or held for the payment of its obligations or realized from the levy, enforcement or collection of any special taxes or assessments on the property within the special assessment district, or in any other manner provided by law. Provision for the payment of such fees or expenses or provision for any such borrowing or the repayment thereof may be included in and made a part of the plan. The governing body which adopted the plan is hereby authorized to expend any available moneys from the general fund of the county, city and county, municipal or public corporation of which it is the legislative body, for the payment of such fees, expenses, or such borrowings or any part thereof.

Further Court Orders

SEC. 16. Further Orders of the Court. At the time of entry of judgment as hereinbefore in section 12 provided, the court shall further permanently restrain and enjoin holders of bonds or warrants affected by said plan or said judgment from instituting or further maintaining suits, actions or proceedings to enforce alleged rights or remedies other than such as by this act or said plan or said interlocutory judgment confirming the same, is specifically granted or provided. The court may also enter judgment or order for declaratory relief in conformity with proper allegations of the petition to that end pursuant to sections 1060, 1061, 1062 and 1602a of the Code of Civil Procedure of the State of California.

Appeals

SEC. 17. Appeals. An appeal may be taken by the governing body on behalf of the special assessment district from any judgment or order dismissing the proceedings or by or on behalf of any bond or warrant holder aggrieved from either the interlocutory judgment provided for in section 9 hereof or from the judgment fixing and determining the value of nonaccepting bonds or warrants as provided in section 12 hereof. Such appeal may be taken in the manner and as provided by law for appeal from final judgment in an equity case.

Termination of Act

Sec. 18. Termination of Act. This act shall remain in effect only until the first day of February, 1939; provided, that if prior to such date any plan complying with the provisions of this act shall have been adopted and accepted as herein provided and proceedings for the confirmation of any such plan shall have been commenced or instituted, such proceedings may nevertheless be maintained and prosecuted to a finality. Such proceedings must conform throughout to the requirements and provisions of this act.

Effect of Dismissal of Petition of Partial Invalidity of Act

Sec. 19. Consent of Accepting Bond or Warrant Holders Not Affected by Invalidity of any Portion of this Act or Dismissal of Petition. In the event that said petition for liquidation, refinancing or readjustment is dismissed, or that any of the provisions hereof for confirmation of the plan or acquisition of the bonds or warrants of the nonaccepting holders shall be declared invalid, such dismissal or declaration shall not affect the effectiveness of the plan with respect to the district or holders of bonds or warrants accepting the same.

Saving Clause

Sec. 20. Saving Clause. If any section, subsection, clause, sentence or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed the remaining portions of this act, irrespective of the fact that such section, subsection, clause, sentence or phrase of this act be declared unconstitutional. If the application of this act or any provision thereof to any class of bonds or warrants or to any class of the holders of such bonds or warrants is for any reason held to be unconstitutional, such decision shall not affect the application of this act to other classes of bonds or warrants or to other classes of the holders thereof. The Legislature hereby declares that it would have provided for the application of this act to such other bonds or warrants or such other classes of holders thereof, irrespective of the fact that the application of this act to any such bonds or warrants or any class of the holders thereof be declared unconstitutional.

Short Title

Sec. 21. Short Title. This act may be known and cited as the "Improvement District Refinancing Act of 1937."

CONSOLIDATION OF DISTRICTS

An act to provide for the consolidation of districts organized or existing under the California Irrigation District Act.

(Approved May 31, 1921, Stats. 1921, p. 1018; amended Stats. 1925, p. 802.)

Consolidation

Section 1. Two or more districts organized or existing under the California Irrigation District Act may be consolidated as in this act provided and when so consolidated, the consolidated district shall possess all of the powers and be governed by and subject to all of the provisions of the California Irrigation District Act, except as in this act otherwise provided, as though originally organized under said act.

Petition and Resolution

SEC. 2. When in the judgment of the board of directors of an irrigation district it is for the best interest of such district that it be consolidated with one or more other districts organized or existing under said California Irrigation District Act or when there is presented to said board a petition signed by signers equal in numbers to and possessing the qualifications required by said California Irrigation District Act for a petition for the organization of a district, said board must pass a resolution reciting such facts and declaring the advisability of such consolidation and its willingness to consolidate and forward a copy thereof to the State Engineer.

Investigation by State Engineer

SEC. 3. Upon the receipt of the certified copy of such resolution adopted by two or more of such districts the State Engineer shall forthwith make or cause to be made such investigation as he may deem necessary.

Report by State Engineer

SEC. 4. Upon the completion of such examination but not more than ninety days after the receipt by him of a copy of the resolution from the board last adopting the same, the State Engineer shall submit to the board of directors of each of said districts his report thereon.

In case said State Engineer shall consider the elimination of a portion of the lands included in any of the original districts advisable, he shall recommend the same in his said report, stating his reasons therefor. He shall also set out the boundaries of the consolidated district recommended and the divisions into which it is to be divided, the same being five in number.

If any of said lands so eliminated have never received water from the original district in which it was included, the owners thereof shall be entitled to the return of all assessments theretofore paid upon same. If any of said lands have theretofore received water, the said State Engineer shall recommend in his said report the portion, if any, of said assessments to the return of which the respective owners are equitably entitled. (Amended, Stats. 1925, p. 802.)

Election

SEC. 5. Within ten days after receiving said report, if the State Engineer deems such consolidation desirable, the board of directors of each of said districts must make an order calling a special election at which shall be submitted to the electors of such district possessing the qualifications prescribed by the California Irrigation District Act the question whether or not said consolidation shall be effected, which said election shall be conducted and the returns canvassed so far as practicable in accordance with the requirements for the general irrigation district election provided for in said act. Notice of such election shall be given for the time and in the manner provided for notice of special elections for the issuance of bonds in said California Irrigation District Act. The ballots shall contain the words "Consolidation—Yes" and "Consolidation—No," or words equivalent thereto, and if a majority of the votes cast in each district are "Consolidation—Yes," then such districts shall be consolidated.

At such election there shall also be elected the directors and other officers of the consolidated district who shall be nominated and voted for as provided for in the general election of an irrigation district. (Added, Stats. 1925, p. 803.)

Action by Board Upon Unfavorable Report

Sec. 6. After receiving said report, if the said engineer deems such consolidation not desirable, or if no report is received from said engineer within ninety (90) days after the submission to him of said copy of said resolution from the board last adopting the same, said boards of directors, if they each shall determine and declare by resolution that the proposed consolidation is desirable, shall each make an order calling a special election in the same manner as provided in section 5 hereof, which said election shall be conducted in the same manner and upon the same notice as provided therein.

Offices

Sec. 7. In the original resolution of consolidation the boards of directors of the several districts shall specify the offices agreed upon for the consolidated district and upon the voters of said districts consolidating said districts as herein provided, the directors and other officers then elected shall thereupon become the officers of such consolidated district and shall qualify and organize in the manner provided for a newly organized district.

Apportionment of Indebtedness

Sec. 8. The report of the said engineer shall recommend the apportionment to the lands of the respective districts any outstanding indebtedness as he deems equitable, and the board of directors of the consolidated district, if such consolidation be made, shall within sixty (60) days after such consolidation act upon such recommendation and shall apportion to the lands of the said consolidated district any outstanding indebtedness as it deems equitable.

Name and Powers of District

Sec. 9. In the original resolution of consolidation the said boards of directors of the several districts shall specify the name agreed upon for the said consolidated district, and if such consolidation is adopted at such election, then said consolidation shall be effective and such consolidated district, under the said name, shall succeed to all of the rights, privileges and properties of all of the districts participating in such consolidation and shall be subject to all of the indebtedness, bonded and otherwise, thereof, as so respectively apportioned, and all future assessments necessary shall be levied in accordance with such apportionment.

Within ten days after said consolidation is made, the board of directors of said consolidated district shall make an order declaring such consolidation effective and setting out the date that same became effective and the boundaries of said consolidated district. A copy of said order, duly certified by the president and secretary thereof, shall be forthwith filed for record in the office of the county recorder of each county in which any lands of said district are situate.

Sale of Bonds

SEC. 10. Any bonds of any irrigation district, or districts, participating in such consolidation pursuant to the provisions of this act, which have been authorized by the electors of such district, or districts, prior to such consolidation, but which have not been issued, may, by order of the board of directors of the consolidated district, be sold or disposed of in the manner provided in sections 32 and 32a, respectively, of the California Irrigation District Act, and the proceeds thereof applied to the purpose for which such bonds were authorized. (Added, Stats. 1925, p. 803.)

CONSOLIDATION VALIDATED

An act confirming and validating the consolidation of irrigation districts and declaring the urgency thereof was enacted by Statutes of 1935, page 390.

DISTRICTS OVER 500,000 ACRES

An act to provide for the government of irrigation districts having an area of more than five hundred thousand acres and for elections and the qualification of electors therein and to enable such irrigation districts to construct levees and to protect the lands within such districts from damage resulting from floods and the overflow of rivers and for that purpose to provide additional powers for boards of directors within such irrigation districts.

(Approved January 23, 1915; Stats. 1915, p. 1; amended Stats. 1933, p. 2028; Stats. 1935, pp. 1684, 2199; Stats. 1937, p. 690.)

Canal System; Flood Control

SECTION 1. The board of directors of irrigation districts having an area of more than 500,000 acres may expend such sums as may to them seem necessary for the protection of the canal system of such district or of lands within such districts from damage by flood and from the overflow of rivers and may contribute funds for that purpose to be expended by or jointly with the government of the United States of America, or other governments or persons benefited by the same protective work or works. The board of directors of any such irrigation district may also do all things necessary to insure such irrigation system and the lands within such district from any such damage by flood or overflow without first receiving a petition of land owners or freeholders for holding an election to authorize such expenditure.

Issuance of Bonds

SEC. 2. When the issuance of bonds of any such district has been authorized by vote of the electors of such district, for the purpose of protection against floods but have not been sold, the board of directors thereof may borrow for such purpose, at the rate of interest not exceeding seven per cent per annum, the amount of such authorized bond issue, but when such bonds have been sold, the amount borrowed under the provisions of this section must be repaid.

Limitation on Additional Loans

SEC. 3. In addition to the powers conferred by the last section, the board of directors of any such district shall have power to borrow for flood protection purposes, in any one year not to exceed two hundred thousand dollars at a rate of interest not greater than seven per cent per annum.

Assessments

SEC. 4. The board of directors of any such irrigation district shall within fifteen days after the close of its session as a board of equalization, levy an assessment sufficient to raise the annual interest on any outstanding bonds of such district and for any year in which any bonds shall fall due, must increase such assessment to an amount sufficient to raise a sum sufficient to pay the principal of the outstanding bonds as they mature, also, sufficient to pay in full all sums due or that shall become due from the district before the time for levying the next annual assessment, also, sufficient to pay in full, the amount of any other contract or obligation of the district due or to become due within the succeeding twelve months and such further sum as, with the other revenue of the district, will meet the estimated current expenses of the district including cost of flood prevention for the succeeding twelve months.

SECS. 4a and 4b. (These sections provided for property qualifications for electors in districts of over 500,000 acres; repealed Stats. 1935, p. 1684.)

SEC. 4c. No argument or contract of any kind having for its purpose the sale, leasing, rental or disposal of electric power or energy, now or to be hereafter generated in any power plant constructed or to be constructed, or operated within or without the boundaries or area of any such irrigation district, except for electric power or energy distributed direct by any such irrigation district to the inhabitants thereof over its own transmission lines, shall be effective for any purpose until ninety days after the execution of any such agreement or contract and until ninety days after spreading on the minutes of the board of directors of such irrigation district of a copy of said agreement or contract, and until ninety days after the date of the first publication of a notice to the electors of such irrigation district to be published in each daily newspaper of the county in which such irrigation district is included, said publication to be made in five successive issues of each such newspaper, the date of the first publication thereof to be within two days after the date of the spreading on the minutes of the board of directors of said district of said contract or agreement. Said notice shall give in substance the nature of the agreement or contract, the consideration therefor, the date to become effective and a brief summary of the contents of the same. If within said ninety days' period a petition signed by qualified electors of such irrigation district, equal in number to twenty per cent of the highest number of votes cast for treasurer or assessor-collector, whichever shall be the highest of the said two offices, of said irrigation district at the last preceding general irrigation district election at which a treasurer or assessor-collector was elected, asking that any such contract or agreement be submitted to the electors of such irrigation district for their approval or rejection, shall be presented to and filed with the secretary of such irrigation district, the said board of directors shall submit to the electors for their approval or rejection, any such contract or agreement, at the next succeeding general election to be held in said irrigation district occurring at any time subsequent to thirty days after the filing of said petition, or at any special election which may be called by the board of directors of any such irrigation district, in the discretion of said board of directors, prior to such regular election, and no such contract or agreement or part thereof shall go into effect or be of any force whatsoever until and unless approved by a majority of the qualified electors voting thereon. (Added, Stats. 1935, p. 2199.)

Declaring the existing law

SEC. 4d. Section 4c does not apply to any agreement or contract which relates to the financing or furnishing of funds for, or the purchase of bonds of, such irrigation districts, for financing the development or distribution of electrical energy.[1] (Added, Stats. 1937, p. 690.)

California Irrigation District Act

SEC. 5. Except as herein provided, every such irrigation district shall be governed by the provisions of an act of the Legislature of the State of California, entitled, "An act to provide for the organization and government of irrigation districts and to provide for the acquisition or construction thereby of works for the irrigation of lands embraced within such districts, and also to provide for the distribution of water for irrigation purposes," approved March 31, 1897, and the acts amendatory thereof.

Urgency

SEC. 6. This act is hereby declared to be an urgency measure, within the meaning of section 1, Article IV of the Constitution of the State of California, and shall take effect immediately.

The facts constituting such urgency are as follows: One irrigation district which will be affected and governed by the provisions of this act, and which contains a population of over thirty thousand people, is in serious danger of loss of life, and of a vast amount of property, by reason of threatened overflow of the Colorado River. There is no other public body authorized to make the expenditures necessary to secure protection from such threatened overflow and the protective work necessary in order to be effective, must be commenced before this act would take effect without the enactment of this section. It is therefore necessary for the immediate preservation of public safety, that this act take effect immediately.

DISSOLUTION OF DISTRICTS

VOLUNTARY DISSOLUTION

An act to provide for the dissolution of irrigation districts, the ascertainment and discharge of their indebtedness, and the distribution of their property.

(Approved February 10, 1903, Stats. 1903, p. 3; amended 1909, p. 139; 1911, Ex. Sess., p. 118; 1913, p. 39; 1915, p. 859.)

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[1] The act which added Section 4c contained an emergency clause and the following statement: The Legislature hereby declares that this amendment to the act cited in the title is not a change in, but a statement and declaratory of, the law as the Legislature intended it to be by the terms of section 4c of said act prior to this amendment.

Dissolution of Districts

SECTION 1. Any irrigation district organized under the provisions of an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887, and all acts supplementary thereto or amendatory thereof, including an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of lands embraced within such districts, and also, to provide for the distribution of water for irrigation purposes," approved March 31, 1897, may be dissolved in the manner hereinafter provided; provided, that in case a contract authorized by law has been made between the district and the United States for the construction, operation and maintenance of the necessary works for the delivery of water or for a water supply, no such district shall be dissolved and no proceedings entertained by any court or otherwise looking to the dissolution of such district, until the written assent of the Secretary of the Interior be given to such a dissolution. (Amended, Stats. 1915, p. 859.)

Petition for Dissolution

SEC. 2. A majority in number of the holders of title, or evidence of title, to real property in any irrigation district, and a majority in value of said property according to the equalized assessment roll of said district for the year last preceding upon which any assessment has been made, may propose the dissolution of said district by a petition signed by such majority, which petition shall set forth the amount of the outstanding bonds, coupons, and other indebtedness, if such there be, together with a general description of the same, and the holders, so far as known, showing the amount of each description of indebtedness and the ownership, so far as known, of the same. Also the estimated cost of the dissolution of said district. Said petition shall also state the assets of said district, including irrigation system, if any, dams, reservoirs, canals, franchises, water rights, a detailed statement of all the lands sold to the district for assessments, and the amount of the assessments on each parcel of land sold, also all assessments unpaid, and the amount upon each lot or tract of land, and all other assets of the district; and in case any proposition has been made by the holders of said indebtedness to settle the same, said proposition, together with any plan proposed to carry the same into execution, shall be included in said petition.

Escondido Mut. Water Co. vs. *Escondido,* 169 Cal. 772, 147 Pac. 1172;
Byington vs. *Sacramento, etc. V. Co.,* 170 Cal. 124, 145 Pac. 791;
Bottoms vs. *Madera Irr. Dist.,* 74 Cal. App. 681, 242 Pac. 100.
Happy Valley Water Co. vs. *Thornton,* 1 Cal. (2d) 325, 34 Pac. (2d) 991.

Special Election in District Without Indebtedness

SEC. 2a. In case an irrigation district has no indebtedness not barred by the statute of limitations and no assets and has ceased to be a going concern and has no irrigation system by which it conveys water for irrigation or domestic purposes to any of the residents of such district, the petition for dissolution mentioned in section 2 of said act shall contain statements showing such facts and also that it is the desire of the signers of such petition to have said district dissolved, and such petition need not contain any other statement or allegation, and such petition need only be signed by two-thirds of the qualified electors residing in such district, and by the holders of title or evidence of title representing at least fifty per cent of the acreage within said district and not less than fifty per cent in value of all lands lying within the exterior boundaries of said district, the value of said lands to be determined by the last equalized assessment roll of said district, and such petition so signed and containing such statements and allegations shall be sufficient.[1] In such case the plan of dissolution refererd to in section 3 of said act may be entirely omitted and it shall not be necessary for the petitioners or persons signing such petition, or for the board of directors of such district to propose any plan for the dissolution of such district or any plan for the liquidation of its indebtedness or the distribution of its assets; provided, that the petition shall further recite the fact that an application will be made to the superior court of the State of California in and for the county in which the office of the board of directors of such district is required to be kept, for a decree of dissolution of said district under the provisions of said act. And in the case mentioned in this section, it shall not be necessary to obtain the assent of any holder of any indebtedness or evidence of indebtedness of said district barred by any statute of limitations of this State before the election provided for in said section 3, shall be called. Upon the filing of said petition with the board of directors of said district said board shall call a special election at which shall be submitted to the electors of such district the question whether or not said district shall be dissolved. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days and also by publication of such notice in some newspaper published in the county where the office of the board of directors is required to be kept, once a week for at least three successive weeks before such election. Such notices must specify the time of holding the election, and the fact that it is proposed to dissolve the district. Said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with provisions of law governing the election of officers in irrigation districts. At such election the ballot shall contain the words "Dissolution of the district—Yes" or "Dissolution of the district—No," or words equivalent thereto. It shall not be necessary in winding up the affairs of any district organized under the laws of this State to pay all or any portion of any debt or obligation of such district, for the enforcement of which debt or obligation a suit is barred by the laws of this State, nor to pay any bond, coupon, warrant or other indebtedness, claim or demand which shall be barred by the laws of this State prior to the filing of the petition for dissolution with the board of directors of such district. (Added; Stats. 1913, p. 39.)

Alternative Proceedings

SEC. 2½. In case an irrigation district has no indebtedness not barred by the statute of limitations and no assets, and has ceased to be a going concern and has no irrigation system by which it conveys water for irrigation or domestic purposes to any of the residents of such district, the petition for dissolution mentioned in section 2 of said act shall contain statements showing such facts and also that it is the desire of the signers of such petition to have said district dissolved, and such petition need not contain any other statement or allegation, and such petition need only be signed by two-thirds of the qualified electors residing in such district, and by the holders of title or evidence of title representing at least fifty per cent of the acreage within said district and not less than fifty per cent in value of all lands lying within the exterior boundaries of said district, the value of said lands to be determined by the last equalized assessment roll of said district, and such petition so signed and containing such statements and allegations shall be sufficient. In such case the plan of dissolution referred to in section 3 of said act need only show the facts that there is no district indebtedness not barred by the statute of limitations and that the district has disposed of all of its assets; provided, that the petition shall further recite the fact that an application will be made to the superior court for a decree of dissolution of said district under the provisions of said act. And in the case mentioned in this section, it shall not be necessary to obtain the assent of any holder of any evidence of indebtedness of said district barred by any statute of limitations of this State before the election, provided for in said section 3, shall be called.[1] (Added, Stats. 1911, Ex. Sess., p. 118.)

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[1] The first sentence of Sec. 2a is a repetition of the first sentence of Sec. 2½.

Special Election; Notice; Ballot

Sec. 3. Upon the filing of said petition with the board of directors of said district said board shall call a special election, at which shall be submitted to the electors of such district the question whether or not said district shall be dissolved, its indebtedness liquidated, and its assets distributed in accordance with the plan so proposed, or in case no plan has been proposed, then in accordance with a plan which shall be proposed by said board of directors in the notice of the election, but no such election shall be called until the assent of all the known holders of valid indebtedness against the district shall be obtained or provision shall be made in said plan for the payment of such nonassenting holders. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors is required to be kept, once a week for at least three successive weeks before such election. Such notices must specify the time of holding the election, the fact that it is proposed to dissolve the district, and a brief summary of the plan proposed for liquidating its indebtedness and disposing of its assets. Said election shall be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions governing the election of officers in irrigation districts. At such election the ballot shall contain the words ''Dissolution of the district—Yes,'' or ''Dissolution of the district—No,'' or words equivalent thereto.

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[1] Compare this section with the provisions of section 2a above.

Determination of Validity of Proceedings

SEC. 4. In case upon such canvass it is found and declared by said board of directors that two-thirds of the votes cast at such election shall be cast in favor of "Dissolution of the district—Yes," then the said board of directors shall file a petition in the superior court of the county wherein is located the office of such board to determine the validity of the proceedings had and of the proposed plan for the dissolution of said district. Such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication of a notice of the pendency of the proceeding for at least once a week for three weeks in some paper of general circulation published in the county where the action is pending; provided, that if the property of the district is situate in more than one county then the publication shall be made in one paper in each county wherein the same is situate, such paper or papers to be designated by the court having jurisdiction of the proceeding; jurisdiction shall be complete in thirty days after the completion of such notice in the manner herein provided. Anyone interested may at any time before the expiration of said thirty days appear and contest the validity of the proceedings already had and of the plan proposed for the dissolution of said district, or any portion thereof, including the validity of any portion of the indebtedness set out in said petition, and the court may determine the validity of any sales for assessments, and may determine the amount of any assessment or assessments due upon the various parcels and lots of real estate within said district, and may determine the amount of any assessment or assessments theretofore paid upon the various parcels and lots of real estate therein, and may in said proceeding adjust and determine the rights and liabilities of all parties. Such action shall be speedily tried and judgment rendered. Either party shall have the right to appeal at any time within thirty days after the entering of such judgment, and the appeal must be heard and determined within three months after the taking of such appeal.

Hearing; Irregularities to Be Disregarded; Costs

SEC. 5. Said petition to the superior court shall set forth the facts required to be set forth in the petition to the board of directors and all the proceedings therein, and at the hearing the court shall hear and determine the regularity, legality, and correctness of all proceedings, and in doing so shall disregard any error, irregularity, or omission which does not affect the substantial rights of the parties. The rules of pleading and practice in the Code of Civil Procedure not inconsistent with the provisions of this act are made applicable to the proceeding herein provided. The cost of any contest may be allowed and proportioned between the parties or taxed to the losing party in the discretion of the court, and no contest of any matter or thing herein provided for shall be made other than in the time and manner herein specified.

Action by Assessment Payer

SEC. 6. If no such proceeding shall have been filed by the board of directors within thirty days after the canvass of said vote, then any district assessment payer may bring an action in the superior court of the county wherein the office of the board of directors is located. The board of directors shall be made parties defendant and notice shall be served on the members of the board personally, if they can be found in the State, if not, then service by publication as provided in section 4, shall be sufficient. Proceedings shall be had in the same manner and with the same effect as if brought by the board of directors.

Acquisition of Property by Corporation

SEC. 7. A corporation may be organized under general laws for the purpose of acquiring the assets of said district, including the irrigation system, if any, dams, reservoirs, canals, franchises and water rights, which corporation shall have all the powers, rights and franchises of corporate bodies organized under general laws, and in addition shall have such further powers as may be necessary to possess and carry on said irrigation system and exercise such franchise and water rights.

Discharge of Debts and Distribution of Assets

SEC. 8. The court in its decree shall have power to make the orders necessary to carry out said proposition for the discharge of the indebtedness and distribution of the property of said district, including the right to apportion any indebtedness found due, and to declare said portions liens upon the various parcels and lots of land within the district, and may decree a sale of its assets in such manner as may effectuate said proposition and as the said court may judge best, either in one lot or in such parcels as may be provided, and may provide for conveyance of said irrigation system, including dams, reservoirs, canals, franchises and water rights, and also of any other assets of the district, including lands sold thereto and the assessments due it.

Assessment Liens; Redemption

SEC. 9. The amounts of any assessment or assessments found due upon the various parcels and lots of real estate within said district, and the amounts for which sales have been made, which sales have been determined to be valid by said court, together with legal interest from the date of said sales and from the time when said assessments become delinquent, shall be liens respectively on the lots and parcels affected thereby, and the purchaser or purchasers at said sale may foreclose the same by action in the superior court, and shall in said action join all lots, assessments, and sales which may have been purchased by him and which remain unredeemed. A redemption may be made at any time by payment of the amount due to the clerk of the court for the use of the district if before sale, and for the use of the purchaser if after sale, and the clerk shall thereupon enter a minute of said payment, which payment shall be in the discharge of said lien. Redemption from the lien created for any portion of the indebtedness can be had in this manner.

Distribution of Surplus Property; Decree of Dissolution

SEC. 10. Whenever all the property of such irrigation district shall have been disposed of, and all the indebtedness and obligations thereof, if any there be, shall have been discharged, the balance of the money of said district shall be distributed to the assessment payers in said district upon the last assessment roll in the proportion in which each has contributed to the total amount of said assessment, and the court shall enter a final decree declaring said district to be dissolved.

Contents of Schedule of Indebtedness

SEC. 10½. In the petition mentioned in section 2 of this act it shall not be necessary to include in the schedule of indebtedness any bond, coupon, warrant or other indebtedness, claim or demand which shall have been barred by the laws of this State prior to the filing of said petition with the board of directors of said irrigation district, nor shall it be necessary in winding up the affairs of any district organized under the laws of this State to pay all or any portion of a debt or obligation of such district, for the enforcement of which debt or obligation a suit is barred by the laws of this State. (Added, Stats. 1909, p. 139.)

Effective Date

SEC. 11. This act shall take effect immediately.

INVOLUNTARY DISSOLUTION

An act declaring the conditions upon which an irrigation district may be dissolved, prescribing the procedure therefor, and the winding up of the affairs of the district when dissolved.

(Approved May 18, 1919, Stats. 1919, p. 751; amended, Stats. 1925, p. 220.)

Dissolution Requirements

SECTION 1. Any irrigation district organized under any of the laws of the State of California, providing for the organization of irrigation districts, which

(a) Has been organized more than three years and has failed and neglected to secure an adequate water supply and which does not have a reasonable prospect of securing an adequate water supply for the lands of the district without prohibitive cost, and has failed and neglected to obtain the approval of the State Water Commission of the water supply of said district and has failed and neglected to obtain the approval of the State Engineer of the plans of said district, and has failed and neglected to construct or acquire a system of works or the financing thereof, and has failed and neglected to obtain the approval of the Irrigation District Bond Commission; or

(b) Has been organized for more than ten years and for more than five years after the construction or acquisition of a system of works has failed and neglected to maintain such works, or for five years or more after such works have been constructed or acquired has failed and neglected to supply or make available, water for the irrigation of more than ten per cent of the lands of the district;

May be dissolved and annulled by the superior court of the county in which said district is located by proceedings in an action brought by the Attorney General in the name of the people of the State of California, upon his own information. Before such an action can be commenced in the courts the Attorney General shall publish for two consecutive weeks in some newspaper published in the county in which the greater portion of the district is located, a notice to all parties in interest that it is his intention to begin such action for the dissolution of said district. The rules of pleading and practice in the Code of

Civil Procedure not inconsistent with the provisions of this act are made applicable to the proceedings herein provided. (Amended, Stats. 1925, p. 220.)

Bottoms vs. *Madera Irr. Dist.*, 74 Cal. App. 681, 242 Pac. 100;
People vs. *Honey Lake Valley Irr. Dist.*, 77 Cal. App. 367, 246 Pac. 819.

Investigation and Report by State Engineer

Sec. 2. Before the trial of the case the court may direct the State Engineer to investigate all the affairs of said district; the water supply that may be obtained without prohibitive cost; the feasibility and practicability of irrigating all or a reasonable amount of the lands of said district; and all other matters which the court may direct, or the State Engineer may deem pertinent as affecting the possible success or failure of the district as an irrigation enterprise and which may be necessary to enable the court to determine the question of dissolution.

For the purpose of making such investigation, the State Engineer shall have access to all the records of the district, and all officers and employees and other persons in any manner connected with or employed by said district shall furnish such information as he may require which has already been obtained or determined, including maps, plans, estimates, field notes, and other data.

The State Engineer shall report his findings and conclusions to the superior court as soon as practicable, but within ninety days unless a longer time be granted him by the court, but in no case to extend beyond the period of one hundred eighty days in all.

Dissolution and Disposition of Property

Sec. 3. Upon final judgment of dissolution in such action, the district in question shall be deemed dissolved and annulled. The court shall determine the amount of indebtedness outstanding against said district, including the costs of the court action herein provided for, and thereafter the appropriate county officers shall act as ex officio officers of the district; the records and papers of every kind belonging to the district shall be turned over to the proper county officers. The county treasurer shall perform the duties of the district treasurer; the county tax collector shall perform the duties of the district tax collector; the county assessor shall perform the duties of the district assessor; the county clerk shall perform the duties of the secretary of the board of directors; the board of supervisors shall perform the duties of the board of directors; they shall proceed to levy and collect such additional taxes as may be necessary upon the lands embraced within such district in the same manner and with the same procedure for nonpayment that county taxes are levied and collected for the purpose of paying such outstanding indebtedness not provided for by previous assessment. All property of every kind belonging to the district, including lands sold to the district for taxes, shall be sold at public sale or shall be distributed to the owners of the lands within the district upon such terms and for such consideration, as the court may impose and direct; and the proceeds, if any, from such public sale or such distribution, together with all other moneys of the district on hand, shall be used to discharge and pay any and all indebtedness of the district. All funds remaining after all outstanding indebtedness has been paid shall be apportioned and be paid to the assessment payers according to the last assessment roll. (Amended, Stats. 1937, p. 375.)

People vs. *Honey Lake Valley Irr. Dist.,* 77 Cal. App. 367, 246 Pac. 819.

Outstanding Indebtedness No Bar to Dissolution

SEC. 4. The outstanding indebtedness, whether of bonds, warrants, or otherwise, of any irrigation district shall not operate as a bar to dissolution by the superior court when provision is made for the payment of such indebtedness in the manner provided in section 3 of this act.

Alternative Method

SEC. 5. This act is designed to provide an alternative method for the dissolution of irrigation districts and shall not be deemed to repeal any other statute or statutes.

As to *quo warranto* proceedings under Sec. 803 of the Code of Civil Procedure, see

People vs. *Selma Irr. Dist.*, 98 Cal. 206, 32 Pac. 1047;
People vs. *Jefferds,* 126 Cal. 296, 58 Pac. 704;
People vs. *Perris Irr. Dist.*, 132 Cal. 289, 64 Pac. 773;
Byington vs. *Sacramento V. etc., Co.,* 170 Cal. 124, 148 Pac. 791.

ESCHEAT OF FUNDS OF DISSOLVED DISTRICT

Code of Civil Procedure, Sec. 1274b

Whenever any money in litigation in any superior or inferior court, or any excess fees or other money deposited in connection with such litigation, has been or shall be paid into the county treasury, or any money has come or shall come into the hands of a county treasurer as ex officio treasurer of a dissolved irrigation district, and three years thereafter it is made to appear to the satisfaction of the court or judge, by affidavit or by testimony taken in open court, that said money has not been and can not be paid out because the owner thereof can not be found, the court or judge must direct that such money be deposited in the State treasury for the benefit of the owner thereof or his legal representative, to be paid to him whenever, within five years after such deposits, proof to the satisfaction of the State Controller and the State Treasurer is produced that he is entitled thereto. When so claimed, an affidavit of the claimant setting forth the facts establishing his ownership, and the joint order of the Controller and the Treasurer must be filed by the Treasurer as his voucher, and the amount of the claim paid to the owner or his legal representative on the filing of the proper receipt. If no one claims the amount as herein provided, the money devolves and escheats to the people of the State of California and shall be placed by the State Treasurer in the school fund. (Amended, Stats. 1931, p. 1955.)

COOPERATIVE AGREEMENT WITH DISTRICTS IN OTHER STATES

An act to provide for cooperation in acquisition, construction and management of irrigation and drainage works between irrigation districts organized or existing under or by virtue of an act *entitled "An act to provide for organization and government of irrigation districts and to provide for the acquisition thereby of works for the irrigation of the lands embraced within such districts, and also to provide for the distribution of water for irrigation purposes," approved March 31, 1897, and contiguous or adjoining districts in or organized under the laws of other states.*

(Approved May 23, 1917, Stats. 1917, p. 905.)

Cooperation With Districts in Adjoining States

SECTION 1. It shall be lawful for irrigation districts organized or existing under or by virtue of an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of the lands embraced within such districts, and also to provide for the distribution of water for irrigation purposes," approved March 31, 1897, to enter into agreements with irrigation districts in adjoining states for the joint construction, acquisition, management and control of diverting, impounding or distributing works for irrigation or draining the lands within the boundaries of their respective districts.

Contracts

SEC. 2. Such agreements may be evidenced by written contracts executed on behalf of their respective boards of directors or trustees, or by resolutions entered upon their respective minutes. Such contracts or certified copies thereof and certified copies of such resolutions shall be recorded in the office of the county recorder in each county in which is situated any of the lands of said districts or any of the reservoir sites or other real property owned by said districts or acquired under the provisions of this act.

Property Interests

SEC. 3. Such agreements may provide for joint or several ownership or ownership in common of the property, necessary or convenient for the purposes of this act and may provide for the terms and conditions under which or the respective proportions in which such property shall be held. Any rights or disputes arising out of or from said agreements may be tried before and enforced by any court of competent jurisdiction in the State.

Meetings

SEC. 4. Any meeting of the board of directors of any such district, held in conjunction with the board of directors of the cooperating district, in such district in the adjoining State, if duly and regularly called as required by law or if regularly adjourned to, shall be as lawful and valid as if held at the office of the board of directors of such district in this State.

Diversion of Water in One State to Be Used in Another

SEC. 5. It shall be lawful for the purposes of such cooperative action to divert water from this State for impounding in the adjoining State or otherwise for distribution to the lands of the cooperating districts regardless of the State in which such lands are situated or to divert water from such adjoining State for impounding or otherwise for distribution to the lands of such cooperating districts in this or the adjoining State.

Ownership of Property Outside State

SEC. 6. So far as may be necessary for fully carrying out the purposes of this act such cooperating district in the adjoining State may hold title to property, in this State and such cooperating district in this State may hold title to property in the adjoining State.

COOPERATION WITH FEDERAL GOVERNMENT FOR CONSTRUCTION, OPERATION, OR MAINTENANCE OF WORKS

An act to authorize irrigation districts to cooperate and contract with the United States under the provisions of the Federal reclamation laws or any other law of the United States for a water supply, or the construction, operation, or maintenance of works, including drainage works or works for the development and distribution of electrical energy, or for the assumption by the district of indebtedness to the United States on account of district lands; and to provide the manner and method of payments to the United States under such contract, and for the apportionment of assessments, and the levy thereof, upon the lands in the district to secure revenue for such payments, and to provide for the judicial review and determination of the validity of the proceedings in connection with such contract, and to provide for construction of works by the district; to declare that certain county water districts shall be deemed irrigation districts for the purpose of assessment of public lands of the United States; to provide for the borrowing or procuring of money from the United States or any agency thereof and the entering into contracts, and/or the issuance of bonds, warrants or other evidence of indebtedness for the repayment thereof, and validating such contracts heretofore made.

(Approved May 5, 1917, Stats. 1917, p. 243; amended, Stats. 1929, p. 208; 1933, p. 2394; 1935, p. 1741.)

Contracts With United States

SECTION 1. In addition to the powers with which irrigation districts have been vested under the act approved March 31, 1897, designated the California Irrigation District Act, and acts amendatory thereof or supplementary thereto, and acts of or to which said act is amendatory or supplementary, irrigation districts heretofore or hereafter organized under said acts shall have the following powers: To cooperate and contract with the United States under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto, or any other act of Congress heretofore or hereafter enacted authorizing or permitting such cooperation, for the purposes of construction of works, whether for irrigation or drainage, or the development and distribution of electrical energy, or any or all of said purposes, or for the acquisition, purchase, extension, operation or maintenance of constructed works, or for a water supply, or for the assumption as principal or guarantor of indebtedness to the United States on account of district lands; also to borrow or procure money from the United States or any agency thereof for the purpose of financing any of the operations of the district or for the purpose of financing or refinancing the obligations of the district, including any outstanding warrants or any other indebtedness, or the funding or refunding or purchase of the bonds of the district or for any of the purposes of the district authorized by law.

Greeson vs. Imperial Irr. Dist., 59 Fed. (2d) 529.

General Powers of District

SEC. 2. The board of directors shall generally perform all such acts as shall be necessary to carry out the enlarged powers in this act enumerated. Said board may enter into any obligation or contract with the United States for the aforesaid purposes, and may provide therein for the delivery and distribution of water for the lands of such district under the aforesaid acts of Congress and the rules and regulations established thereunder. The contract may provide for the conveyance to the United States as partial consideration for the privileges obtained by the district under said contract, of water rights or other property of the district; and in case contract has been or may hereafter be made with the United States as herein provided, bonds of the district may be transferred to, or deposited with the United States, if so provided by said contract and authorized as hereinafter set forth, at not less than ninety-five per cent of their par value, to the amount to be paid by the district to United States or any part thereof; the interest or principal, or both, on said bonds to be raised by assessment and levy as hereinafter prescribed, and to be regularly paid to the United States and applied as provided in said contract. Bonds transferred to or deposited with the United States may call for the payment of such interest not exceeding six per cent per annum, may be of such denomination, and may call for the repayment of the principal at such times as may be agreed upon between the board and the secretary of the interior. The contract with the United States may likewise call for the payment of the amount or amounts to be paid by the district to the United States or any part thereof at such times and in such installments and with such interest charges not exceeding the aforesaid rate as may be agreed upon, and for assessment and levy therefor as hereinafter provided. Moreover the board may accept on behalf of the district, appointment of the district as fiscal agent of the United States, or authorization of the district by the United States to make collection of moneys for or on behalf of he United States in connection with any Federal reclamation project whereupon the district shall be authorized so to act and to assume the duties and liabilities incident to such action, and the said board shall have full power to do any and all things required by the Federal statutes now or hereafter enacted in connection therewith, and all things required by the rules and regulations now or that may hereafter be established by any department of the Federal government in regard thereto. Districts cooperating with the United States may rent or lease water to private lands, entrymen, or municipalities in the neighborhood of the district, in pursuance of contract with the United States.

Election

Sec. 3. Any proposal to enter into a contract with the United States for the repayment of construction moneys, the cost of a water supply or the acquisition of property, and to issue bonds, if any be proposed, shall be voted upon at an election wherein proceedings shall be had in so far as applicable in the manner provided in the case of the ordinary issuance of district bonds. Said proposal, with such plans and estimates of cost as have been made in connection therewith, shall be submitted to the State Engineer for his examination and report, and the proceedings in that regard shall be in accord with section 30 of the act approved March 31, 1897, as amended, in so far as the same may be applicable. Notice of the election herein provided for shall contain in addition to the information required in the case of ordinary bond election a statement of the maximum amount of money to be payable to the United States for construction purposes, cost of water supply and acquisition of property, exclusive of penalties and interest, together with a general statement of the property, if any, to be conveyed by the district as hereinabove provided. The ballots at such election shall contain a brief statement of the general purpose of said contract and the amount of the obligation to be assumed, as aforesaid, with the words ''Contract—Yes'' and ''Contract—No,'' or ''Contract and bonds—Yes'' and ''Contract and bonds—No,'' as the case may be. The board of directors may submit any such contract or proposed contract and bond issue if any, to the superior court of the county wherein is located the office of said board to determine the validity thereof and the authority of the board to enter into such contract, and the authority for and validity of the issuance and deposit or transfer of said bonds; whereupon the same proceedings shall be had as in the ordinary case of the judicial determination of the validity of bonds and with like effect.

Distribution of Water

Sec. 4. All water, the right to use of which is acquired by the district under any contract with the United States shall be distributed and apportioned by the district in accordance with the acts of Congress applicable thereto, the rules and regulations of the Secretary of the Interior thereunder, and the provisions of said contract, and provision may be made in the contract between the district and the United States for the refusal of water service to any or all lands which may become delinquent in the payment of any assessment levied for the purpose of carrying out any contract between the district and the United States.

Rights of Way

Sec. 5. Any rights of way or other property owned or acquired by the district may be conveyed by the board to the United States in so far as the same may be needed for the construction, operation and maintenance of works by the United States for the benefit of the district under any contract that may be entered into with the United States pursuance to this act.

Assessments

Sec. 6. All payments due or to become due to the United States under any contract between the district and the United States, including such payments of interest and principal on bonds as may be required in connection with a deposit or transfer thereof to the United States, shall be paid, unless otherwise provided by contract, by revenue derived from annual assessments, apportioned as hereinafter prescribed, and levies thereof, upon such real property within the district as may be assessable for district purposes under the laws of the State, and such real property shall be and remain liable to be assessed and levied upon for such payments as herein provided. It shall be the duty of the board of directors annually to levy an assessment sufficient to raise the money necessary to meet all payments when due as provided in the contract. All money collected in pursuance of such contract by assessments and levies, or otherwise, shall be paid into the district treasury and held in a fund to be known as the ''United States contract fund,'' to be used for payments due to the United States under any such contract. Public lands of the United States within any district shall be subject to assessment for all purposes of this act to the extent provided for by the act of Congress approved August 11, 1916, entitled ''An act to promote reclamation of arid lands,'' or any other law which may hereafter be enacted by Congress in the same relation, upon full compliance therewith by the district. Nothing in this act contained shall be construed to relieve the district from obligation to pay as a district in case of default of any land, unless so provided by the said contract between the district and the United States.

Sec. 6a. All county water districts organized and existing under the County Water District Act of this State, as amended, which have heretofore executed or shall hereafter execute a contract or contracts with the United States for the construction of works, whether for irrigation, drainage, flood control or for the development of electric or other power or for the acquisition, purchase, extension, operation or maintenance of such works, or for a water supply, or for the assumption as principal or guarantor of indebtedness to the United States, are hereby declared to be and shall be deemed irrigation districts organized and created under the irrigation district laws of this State within the meaning of the act of Congress approved August 11, 1916, entitled ''An act to promote the reclamation of arid lands'' and of the act of Congress approved May 15, 1922, entitled ''An act to provide for the application of the reclamation law to irrigation districts'' and public lands of the United States within any such district shall be subject to assessment and taxation for all purposes of said district to the extent provided in said acts of Congress upon full compliance therewith by the district. (Added, Stats. 1935, p. 1741.)

Apportionment of Assessments for Benefits

Sec. 7. The assessment required in any year to meet the payment due to the United States for all purposes under the contract as in this act provided may be apportioned in accordance with the benefits, and in the ascertainment of such benefits there shall be taken into account the provisions of the contract between the United States and the district, the Federal laws applicable thereto, and the notices and regulations issued in pursuance of said laws, and in case such contract is for the assumption by the district as principal or guarantor of indebtedness to the United States theretofore existing on account of district lands, there shall be further taken into account the provisions of existing contracts carrying such indebtedness and the amounts of such liens as may be released in pursuance of the contract between the United States and the district.

Dissolution or Change of Boundaries

SEC. 8. Where contract shall have been entered into between the United States and any irrigation district the district shall not be dissolved, nor shall the boundaries be changed, except upon written consent of the Secretary of the Interior filed with the official records of the district. If such consent be given and lands be excluded, the areas excluded shall be free from all liens and charges for payments to become due to the United States.

Effect on California Irrigation District Act

SEC. 9. The provisions of the general irrigation district act, approved March 31, 1897, and acts amendatory thereof or supplemental thereto, shall be and remain in force as regards irrigation districts in this act referred to except in so far as herein modified expressly or by necessary implication; and nothing in this act shall be so construed as to affect irrigation district operations not related to cooperation with the United States. However, the provisions of section 53 of said act, approved March 31, 1897, shall not apply in case of any contract between an irrigation district and the United States.

Construction Contracts With United States

SEC. 10. In addition to the other powers enumerated in this act, in any case where the United States or any department thereof under United States authority, is about to construct or is authorized to construct works for the benefit of any such irrigation district and such district is obligated by contract or otherwise to repay the construction cost thereof in whole or in part to the United States or such department thereof, then such irrigation district may by resolution of its board of directors enter into contract with the United States or such department therefor for the construction of such works or may submit bids for construction thereof the same as any other person or corporation could submit bids for the construction of public works, and in the event such irrigation district shall become the successful bidder for such works or any part thereof the irrigation district is authorized to cause to be executed at the cost of the district a bond or bonds for the faithful performance of the work and to do any and all things required by the United States or such department thereof as would be required of any other successful bidder on such works, and such irrigation district shall upon the execution of such construction contract proceed with the work in the same manner and under the same laws, rules, and regulations as would apply to such irrigation district in the construction of any works which such district is authorized to construct and for the purpose of providing the necessary moneys to carry on such construction work the board of directors of such irrigation district is authorized to borrow money for a term not exceeding five years and at rates of interest to be fixed by the board of directors, not exceeding seven per centum per annum, and issue notes, warrants or other evidence of indebtedness therefor; provided, however, that the aggregate amount of such indebtedness shall at no time exceed one-half of the total construction cost as provided by the contract therefor; and provided, further, that any moneys received by such irrigation district from the United States or any department thereof under such contract shall first be applied to the retirement of such notes, warrants or other evidences of indebtedness. (Added, Stats. 1929, p. 208.)

Sale of District Obligations to United States and Agencies

SEC. 11. In addition to other powers in this act conferred, irrigation districts shall have authority to borrow or procure money from the United States or any agency thereof, for the purpose of financing any of the operations of the district or financing or refinancing any or all of the obligations of the district, including outstanding warrants or any other indebtedness, or the funding or refunding or purchase of the bonds of the district, or for any of the other purposes of the district authorized by the California Irrigation District Act, or acts amendatory thereof or supplementary thereto. As evidence of such loan or loans and the obligations of such district to repay the same to the United States or any agency thereof, any irrigation district, upon being authorized so to do as provided by section 3 of this act as hereinafter in this section modified, may make and enter into contract or contracts with the United States or any agency thereof, as a condition or requirement to the making of such loan or loans. Such district may issue bonds of such district as may be required by the contract last above provided for or without such contract, containing such terms and conditions and payable in such manner and from such source or sources of income and/or revenue as may be agreed upon between the district and the United States or agency and may obligate and bind the district for the payment of such bonds according to the terms thereof. Such bonds may be serial or sinking fund bonds and may be made callable either by number or by lot and may be made payable to bearer or to the United States or any agency thereof and shall be in the form and authorized and issued in the manner substantially as provided for in the California Irrigation District Act, for the form and issuance of funding and refunding bonds of irrigation districts. Notwithstanding any provision of this act, a proposal to enter into and execute any contract with the United States or any agency thereof as provided for by this section need not be submitted to the State Engineer and a majority vote shall be sufficient to authorize the execution thereof, and the notice of election and ballot need contain only the information required in the case of ordinary bond election and that a proposal to enter into such contract and to issue bonds, if any, may be voted upon together as a single proposition. When the security underlying the indebtedness of any district has been or is hereafter appraised by the Reconstruction Finance Corporation or any agency of the United States, or said Corporation or any agency of the United States, with or without such appraisal, has loaned or hereafter loans any such district money to fund or refund any of its indebtedness or to finance any of its operations, such district shall have and is hereby given power and authority in contracting for such loan to enter into an agreement that it will not thereafter during the life of such loan levy any assessment for a less amount than required by the provisions of section 39 of the California

Irrigation District Act or by the terms of such contract, and when such district shall have so contracted, the California Districts Securities Commission shall not thereafter have jurisdiction or authority to approve of give its consent to the levy of an assessment in any amount less than required to be levied by the provisions of section 39 of the California Irrigation District Act, or less than the amount required by the terms of such contract, and all contracts and agreements between such districts and the Reconstruction Finance Corporation, or any other agency of the United States, heretofore executed providing for such loans are hereby approved, ratified, and confirmed. (Amended, Stats. 1935, p. 1741.)

COOPERATION UNDER FEDERAL TWENTY-YEAR EXTENSION ACT

An act authorizing and empowering irrigation and reclamation districts to enter into contracts with the United States Reclamation Service for the reclamation of lands within such districts under the provisions of the so-called "Twenty Year Extension Act."

(Approved May 21, 1917, Stats. 1917, p. 781.)

Contracts With Reclamation Service

SECTION 1. The board of trustees, or directors of any irrigation or reclamation district now organized under the provisions of the laws of the State of California, or of any irrigation or reclamation district hereafter organized under the laws of the State of California, may, in their discretion, whenever it is determined by such board that it is for the best interests of such districts, enter into a contract with the proper officer of the United States Reclamation Service for the reclamation, either by drainage or irrigation of lands within the boundaries of such district, or by preventing high water from overflowing the same, under the provisions of an act of Congress approved August 13, 1914, entitled "An act extending the period of payment under reclamation projects, and for other purposes," which act is commonly known as the Twenty Year Extension Act, and from and after the execution of such contract, the amount of indebtedness created thereby shall be and become a lien upon the lands to be benefited by such reclamation work.

Payments

SEC. 2. The board of trustees or directors of any irrigation or reclamation district above mentioned, shall provide by a resolution duly adopted at a regular meeting, or special meeting of such board called for the purpose, for the payments of the amounts to become due under the contract with the United States, according to the provisions of such contract, by assessment upon the lands, in such district, which are to be benefited by such work, such assessment to be collected by the tax collector of the county within which such lands are situated, the same as other taxes are collected, or by any other officer authorized by law to collect assessments within said district.

CONTRACTS WITH WATER PROJECT AUTHORITY

An act authorizing any irrigation district, reclamation district, municipal utility district, public utility district, municipality, water district, water storage district, and any public or municipal corporation, political subdivision, district, State agency or authority, to enter into and execute appropriate contracts with the Water Project Authority of the State of California, created in and by the Central Valley Project Act of 1933, under the provisions of Chapter 1042 of the Statutes of 1933, and authorizing any such agency or entity to comply with the provisions of any such contract and authorizing any such agency or entity to segregate, allocate, devote and pledge revenues derived from the sale, use or distribution of facilities received from said Water Project Authority under any such contract, for the purpose of securing payments under such contract; and authorizing any such agency or entity to establish a special account for the purposes of such contracts, funds accruing to which shall be and constitute a trust fund for the purpose of making payments under such contract to said Water Project Authority.

(Approved July 20, 1935, Stats. 1935, p. 2101.)

SECTION 1. For the purposes of this act, "State agency" shall mean and include any irrigation district, reclamation district, municipal utility district, public utility district, municipality, water district, water storage district, and any public or municipal corporation, political subdivision, district, State agency or authority, now organized, or which may hereafter be organized, under and by virtue of the laws of the State of California, now in effect or which may hereafter be enacted.

SEC. 2. In addition to the powers conferred by law, and not in derogation or in limitation thereof, any State agency is hereby authorized, enabled and empowered to enter into and execute appropriate contracts with the Water Project Authority of the State of California, a body politic and corporate, created in and by the Central Valley Project Act of 1933, Chapter 1042 of the Statutes of 1933, for any and all the purposes and objects of the said act and as provided and contemplated therein; and any such State agency is hereby authorized, enabled and empowered to comply with any and all the terms, provisions and conditions of any such contract.

SEC. 3. Any such State agency may, in any such contract, provide therein for the segregation and allocation of any and all revenues received by any such State agency from the sale, use or distribution of any water, use of water, electric energy or other facilities to be received, used or distributed by any such State agency under such contract with the said Water Project Authority; and, pursuant to the terms and provisions of any such contract, may segregate, allocate and devote any such revenues, in whole or in part, solely for the purpose of making payments to said Water Project Authority, for such water, use of water, electric energy or other facilities to be received, used or distributed under any such contract; and any such State agency may further provide in any such contract for the pledge, in whole or in part, of any such revenues for the purpose of securing to the said Water Project Authority any payments which may become due under any such contract, and may, pursuant to the terms of any such contract, so pledge such revenues, in whole or in part, for any such purpose.

SEC. 4. Any such State agency may further, in any such contract, promise and agree to and with said Water Project Authority to establish and maintain a special account to be created in and from its general fund, or other appropriate fund, and may, pursuant thereto, create, establish and maintain such special account, and any and all funds accruing to said special account, or deposited therein, in compliance with the terms and provisions of any such contract shall be and constitute a trust fund for the purpose of making payments to said Water Project Authority, as may be provided in such contract.

SEC. 5. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, void or inoperative, the unconstitutionality or invalidity of such section, subsection, sentence, clause or phrase, shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional, void or inoperative.

UNION OF DISTRICTS FOR PRODUCTION OF MATERIALS

Political Code, Sec. 4041e

Cement Plants, Rock Quarries, Etc.

Counties, cities and irrigation districts may jointly or severally purchase, lease, or otherwise acquire, or operate, manage and control rock quarries, rock plants, sand pits, cement plants, and other works or projects for the extraction, manufacture, or preparation of rock, sand, cement and other materials used by them in performing county, city, or district functions. (Added, Stats. 1921, p. 191.)

ASSESSMENT OF PUBLIC LANDS

An act to promote the reclamation of arid land and to provide that certain land belonging to the State of California, within the boundaries of an irrigation district shall be subject to the assessments levied in said district.

(Approved May 25, 1917, Stats. 1917, p. 936.)

Assessment of State Lands in District

SECTION 1. Whenever there shall be included in any irrigation district organized and existing under the laws of this State, public lands belonging to the State subject to entry, or which have been entered, and for which no certificates of purchase have been issued, such lands are hereby made and declared to be subject to all of the provisions of law relating to the organization, government and regulation of irrigation districts to the same extent and in the same manner in which the lands of a like character held under private ownership are or may be subject to such law; provided, however, that nothing herein contained shall be construed as creating any obligation against the State of California to pay any of said charges, assessments or debt.

Notice Served on Surveyor General

SEC. 2. All notices required by the act under which such district is organized shall, as soon as such notices are issued, be served upon the Surveyor General of the State of California by mailing to his office a copy thereof enclosed in a sealed envelope with postage prepaid.

Assessment a Lien

SEC. 3. No public lands which were unentered at the time any assessment was levied against the same by such irrigation district shall be sold for such assessment, but such assessment shall be and continue a lien upon such land, and no patent shall issue therefor until the applicant shall present a certificate from the proper district officer showing that no unpaid assessments or charges are due and delinquent against said land.

REDEMPTION OF PROPERTY SOLD FOR DELINQUENT ASSESSMENTS

An act relating to the redemption of property sold to irrigation district for delinquent assessments.

(Approved May 8, 1937, Stats. 1937, p. 508)

Lands Sold Prior to September 30, 1936

SECTION 1. In all cases where land has been sold to an irrigation district prior to September 30, 1936, for any delinquent irrigation district tax or assessment and the district still holds the certificate of sale, and a deed for the land has not been taken by the district at any time prior to redemption of the land as provided by law, or by this act, and if all installments of taxes or assessments which have become due and payable after July 1, 1936, are paid, then the owner of said land may, notwithstanding any of the provisions of sections 43 and 47 of the California Irrigation District Act, or the provisions of any other section or sections of said act, redeem the same by the payment of the original amount of all unpaid assessments in ten equal annual installments plus seven per cent interest on said total amount from July 1, 1936, to the date of the first payment, and thereafter interest at the same rate on all deferred payments. More than one installment may be paid on or before the due date thereof. The first installment shall be paid on or before July 1, 1938, the second installment shall be paid on or before July 1, 1939, and each succeeding installment on or before July 1 of each respective calendar year thereafter, provided that no such installment shall be accepted by the collector unless there is paid therewith or shall have been paid prior thereto the full amount of any assessment or assessments that shall have become due and payable since the payment of the last previous installment, together with all penalties and costs, if any, which shall have accrued thereon. No other amount shall be required to be paid in order to effect such redemption either by way of penalties for delinquencies, redemption penalties or costs. This act is not intended to repeal or modify any of the provisions of the California Irrigation District Act, except as to those sales for delinquent assessments made prior to September 30, 1936.

Scope of Act

Sec. 2. In the event that such property is not redeemed in accordance with section 1 of this act, such property can be redeemed only in accordance with the provisions of law which would govern the redemption of such property but for the provisions of this act, and any moneys paid pursuant to the provisions of section 1 of this act shall be credited on the amount necessary for redemption.

Sec. 3. This act shall not affect the operation of any existing law providing for such redemption by installments but shall be a separate independent means of such redemption. Provided, however, that in all cases where redemption of such property was commenced under the provisions of that certain act entitled ''An act relating to the redemption of property sold to irrigation districts for delinquent assessments, and declaring the urgency thereof,'' approved September 20, 1934, or any amendment thereof, or of that certain act entitled ''An act relating to the redemption of property sold to irrigation districts for delinquent assessments,'' approved June 12, 1933, and default was had in any installment thereof, and the district has not taken a deed to the property, any money, except that paid on account of interest as provided in those acts, shall be credited on the amount necessary for redemption under the provisions of this act.

SETTLEMENT OF WATER RIGHT CONTROVERSIES TO TAX DEEDED LANDS

An act to enable irrigation districts to negotiate settlements of controversies involving alleged damage to the water rights of land within such districts, in cases where the State of California holds a tax title to any land in such district.

(Approved June 16, 1933, Stats. 1933, p. 2557.)

Disclaimer by State

Section 1. In all cases in which there are now pending, or may hereafter arise, controversies involving any damage to any and all water rights of any land located within the boundaries of any irrigation district within the State of California, to which land the State of California may now hold, or hereafter acquire, a tax sales certificate, or tax deed, and the conditions hereinafter set forth in section 2 exist, the State of California, as the owner of said tax title, disclaims any interest in said controversy and authorizes the board of directors of the irrigation district within which the said land is located to make a final settlement of said controversy.

Damages to Be Used for District Purposes

Sec. 2. The damages claimed in said controversy must have occurred prior to the execution of the tax collector's deed to the State of California provided for in section 3785 of the Political Code. The settlement must be upon terms satisfactory to the board of directors of said irrigation district, and the tax title of the State of the land shall remain wholly unimpaired. The net amount of money collected in said settlement, and remaining after the payment of the expenses and attorneys' fees, if any, incurred by said irrigation district in said controversy, shall be paid into the treasury of the said irrigation district and be used solely for district purposes in the manner that the board of directors thereof shall specify.

CANCELLATION OF TAXES[1]

Political Code, Sec. 3804a.

Cancellation of Taxes Erroneously or Illegally Assessed

Any uncollected tax, or assessment, or portion thereof, or penalty or costs thereon, heretofore or hereafter assessed, charged or levied more than once, or erroneously or illegally, or upon that portion of an assessmsent found to be in excess of the actual cash value of the property assessed, by reason of a clerical error of the assessor, or upon an assessment for improvements on land when such improvements did not in fact exist at the time said tax or assessment became a lien, or upon an assessment of property which after the time said tax or assessment became a lien was acquired and owned by the State, or by any county, city and county, municipal corporation, school district or other political subdivision and which, because of such public ownership, is not subject to sale for delinquent taxes, may, upon satisfactory proof thereof, be canceled by the officer having custody of the record thereof upon the order of the board of supervisors, or other governing board with the written consent of the district attorney, city attorney or legal advisor of said board; provided, that no cancellation shall be made of such charges on property exempt from taxation in event of failure to comply with the provisions of law, if any, relative to the manner of claiming such exemptions.

If real property has been sold to the State or other subdivision for nonpayment of any tax levied as described in this section, and a certificate of sale or deed therefor has been issued to the State, or other subdivision and the State or other subdivision has not disposed of the property so sold, the order of the board shall also direct the officer having custody of the record thereof to cancel the certificate of sale or deed so issued.

In the City and County of San Francisco, the written consent of the city attorney shall have the same effect as the written consent of the district attorney. (Amended, Stats. 1925, p. 431.)

See
La Mesa etc. Irr. Dist. vs. *Hornbeck,* 216 Cal. 730, 17 Pac. (2d) 143;
People vs. *Supervisors,* 126 Cal. App. 670, 15 Pac. (2d) 209.

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[1] See p. 58, Cancellation of Bonds and Interest Coupons; also *supra,* Satisfaction of Taxes and Assessments by Surrender of Obligations.

PURCHASE OR USE OF LANDS DEEDED TO THE STATE FOR TAXES

Political Code, Sec. 3897d

Lands Deeded Both to the State and Public Corporations for Delinquent Taxes or Assessments

Whenever any property has been deeded for delinquent taxes and/or assessments to the State, and said property has also been deeded for delinquent taxes and/or assessments to any municipality, irrigation district, reclamation district, or other public corporation or district, or to any county treasurer as trustee for a reclamation district as provided by law, the board of trustees, board of directors or other governing body of any such public corporation or district, or such county treasurer, with the consent of the board of trustees of the reclamation district for which he holds such property as trustee, may enter into an agreement with the board of supervisors of the county in which such property in situated, subject to the approval of the State Controller as hereinafter provided, for the purchase of, or for an option to purchase, the property so held by the State, or any part or parts thereof. The term "public agency" as used in this section means any such municipality, irrigation district, reclamation district or other public corporation or district or any county treasurer who shall have taken title to any land as trustee for a reclamation district as provided by law, and the term "public agencies" as used in this section means more than one public agency of any kind or kinds. The word "county" as used in this section shall be construed to include city and county. In case two or more public agencies shall have taken title to the same property, they may jointly agree with the board of supervisors of the county in which said property is situated for the purchase of, or for an option to purchase, said property so deeded to the State, or any part or parts thereof, and such agreement may provide for the conveyance of said property to one of such public agencies, or to any two or more of them, with such interests therein as may be provided in said agreement. Any such agreement may cover any land deeded to the State for delinquent taxes and/or assessments without regard to the boundaries of the parcels in which it was deeded to the State, and may provide for the sale of various portions of said land at various prices and on various terms and for an option or options to purchase the remaining portion or portions thereof, but no option to purchase any such land shall be given for a period of more than three years. Notwithstanding any other provision or provisions of this code or of any law or laws governing any public agency or public agencies which may become a party or parties to any such agreement, it may provide for the price or prices for which and the terms on which the property described therein may or shall be purchased, and when any such agreement shall have been signed by the State Controller as herein provided, the price or prices and the terms set forth in said agreement shall be the lawful price or prices for which and the lawful terms on which said property may or shall be sold. As many executed copies of said agreement as there are parties to it and one additional executed copy shall be submitted to the State Controller. If he shall not approve the agreement, he shall return a copy of it to each party thereto, with a statement of his objections to it, and thereafter a new or modified agreement may be made. If the State Controller shall approve the agreement, he shall sign each executed copy thereof and return one copy so signed to each party thereto, and keep one executed copy thereof on file in his office. Thereupon he shall, by written authorization, direct the tax collector of the county in which the property described in said agreement is situated to cause notice in writing of the making of said agreement to be given as hereinafter provided. Said notice shall describe the property covered by the agreement substantially as described therein, and shall state the name of the person to whom the property was assessed, or the various persons to whom the property or any portions thereof were assessed, for each year in which there may be delinquent taxes against said property or any part or parts thereof, and said notice shall also state that an agreement for the sale of said property or for an option to purchase it, or both, as the case may be, has been made by the board of supervisors of the county with the public agency or public agencies named in the agreement and has been approved by the State Controller, and that a copy of said agreement is on file in the office of said board of supervisors. Said notice shall be published for at least three successive weeks in some newspaper published in the county in which said property is situated, or if there be no newspaper published therein, then by posting copies of said notice in three conspicuous places in the county, one of which shall be in the United States post office nearest the land, in addition to a notice conspicuously posted on the land itself for the same period. The tax collector shall also mail, within five days after the first publication of said notice, a copy thereof, postage thereon prepaid and registered, to the party to whom the land was last assessed next before the making of said agreement, at his last known post-office address, or if no address is known for such party, then to the county seat of the county in which said land is situated, or, if various portions of the property covered by said agreement were last assessed to various parties, then a copy of said notice shall be mailed as aforesaid to each party to whom any portion of said land was last assessed. The cost of giving the notice of said agreement as aforesaid shall be paid by the public agency or public agencies by which the property described therein is to be or may be purchased as provided therein. An affidavit or affidavits showing that notice has been given as herein prescribed shall be filed in the office of the county tax collector, and said agreement shall not become effective until twenty-one days after the first publication and the mailing or until twenty-one days after the posting and mailing of said notice as herein provided. It shall not be necessary to mail said notice to a party if such party shall file with the tax collector a written acknowledgment of receipt of a copy of said notice or a waiver of said notice. If within twenty-one days after the first publication and the mailing or the posting and mailing of said notice as herein provided, said property or any of it is redeemed as provided in this code, or if said property or any of it is thereafter redeemed before the purchaser or purchasers named in said agreement shall have complied with all the terms of purchase therein set forth, then the agreement shall become and be null and void as to the property so redeemed, but if said property or any of it is not so redeemed, then whenever the public agency or public agencies named in said agreement as the purchaser or purchasers or optionee or optionees of said property shall have complied with all of the terms thereof required for the purchase of said property or any portion thereof, the tax collector of the county in which said property or such portion thereof is situated shall make, execute and deliver to such purchaser or purchasers a deed to said property, or such portion thereof as to which the terms of said agreement shall have been complied with, which deed shall be in substantially the following form:

''This indenture, made the ------ day of ------, 19--, between ------ as tax collector of the county of ------, State of California, first party, and ------, (designating the public agency or public agencies purchasing the property) second party (or second parties), Witnesseth:

''That whereas, the real property hereinafter described was duly sold and conveyed to the State of California for the nonpayment of taxes which had been legally levied and which were a lien upon said property under and in accordance with law; and

''Whereas, the right of redemption of said property has been terminated as provided in section 3897d of the Political Code and second party has (or second parties have) purchased said property in accordance with the provisions of said section; now, therefore,

''Said first party does hereby grant to said second party (or second parties) all that certain real property in the county of --------, State of California, described as follows:

(Insert description.)

''Witness my hand:

''As tax collector of said county
of ------------------------------.''

No matters need be recited in said deed other than those provided for in the above form, whether the sale is made before or after this act takes effect. Upon the execution of said deed, all rights to redeem said property as provided in this code shall be terminated: and all existing liens in favor of the State of California, and all existing liens represented by the deed to the State of California shall be extinguished. Such deed shall convey to the purchaser all right, title, estate and interest of the State in and to the property. No fee shall be charged for making said deed, and it shall be, except as against actual fraud, conclusive evidence of the performance of all the requirements of this section and shall otherwise have the same effect as evidence and as a conveyance as a deed issued as provided in section 3898 of this code.

Any payment or payments required by said agreement to be made for the purchase from the State of the property described in said agreement, or any part thereof, shall be made to the county tax collector and shall be distributed between the taxing agencies, the liens of which are represented by the deed to the State, pro rata in the proportion which the amount of the taxes and assessments due to each such taxing agency bears to the total amount of taxes and assessments due to such taxing agencies.

In case any property has been deeded to two or more public agencies, pursuant to sales for delinquent taxes and/or assessments, any one or more of the public agencies holding title to said property may sell and convey or agree to sell and convey its or their interest therein, or in any part thereof, to any other public agency or public agencies holding any interest therein, for such price and on such terms as they may agree upon, and any such public agency is hereby expressly authorized to purchase the interest of any other public agency in such property, or to unite with any other public agency in the purchase thereof, whether said property has been deeded to the State or not.

No action, suit or proceeding to set aside, cancel or question the validity or regularity of any agreement made by any board of supervisors or any deed executed by the tax collector to a public agency under this section or to attack or question the effectiveness of any such instrument to convey or affect the title to the land therein described shall be commenced or maintained unless the same shall have been commenced within one year after the execution of such instrument, and thereafter all persons shall be barred from commencing or prosecuting any such action, suit or proceeding or maintaining any defense, counterclaim or cross-complaint or answer thereto in any action, suit or proceeding, which action, suit or proceeding, defense, counterclaim, cross-complaint or answer is based or depends in whole or in part upon the alleged invalidity, irregularity or ineffectiveness of such agreement or deed. The burden of proof in any such action, suit or proceeding shall be upon the person urging the invalidity, irregularity or ineffectiveness of such agreement or deed or of any taxes, assessments, sales or tax deeds of which he complains to show such invalidity, irregularity or ineffectiveness. (Amended, Stats. 1937, p. 1462.)

Constitutionality upheld:

South San Joaquin Irr. Dist. vs. *Neumiller*, 2 Cal. (2d) 485, 42 Pac. (2d) 64.

Political Code, Sec. 3897

(1) Except when otherwise disposed of as provided in sections 3897a and 3897b of this code, whenever the State shall have become the owner of any property sold for taxes and the deed to the State has been filed with the Controller as provided in section 3785, the tax collector of the county, or city and county, in which said land is located, shall whenever directed by the board of supervisors of his county, and upon the written authorization of the State Controller sell at private sale or public auction to the highest bidder for cash in lawful money of the United States, or by contract of sale upon the following terms, to wit: one-tenth ($\frac{1}{10}$) of the purchase price in cash at time of sale, and the balance in nine (9) annual installments thereafter, with interest upon unpaid balance of the purchase price at five per cent (5%) per annum, payable annually, and subject to the condition that all current taxes and assessments thereafter levied and

assessed during the term of such contract should be paid within the time allowed by law therefor, the property or any part thereof in the manner hereinafter provided; provided that the tax collector shall not proceed with the sale of any land within any political subdivision or taxing agency, including reclamation, irrigation, drainage or levee district, county, or city which has taken title to said land, if the governing body of said subdivision or agency shall file with the tax collector and the board of supervisors certified copies of a resolution adopted by such governing body objecting to such sale.

(2) In case it is sought to sell such property at private sale under the provisions hereof, after the State Controller has authorized such sale, the tax collector shall, as a condition to the authority to sell at private sale, either for cash or by contract, first obtained the consent of the board of supervisors of the county, or city and county, in which the lands, or any part thereof, are located, to the proposed sale, and to that end the tax collector shall transmit to such board a notice in writing, of his intention to make such sale, which notice shall contain a description of the property to be sold, and the price in lawful money of the United States, at which it is proposed to sell the same, and also whether such price is to be paid in full at time of purchase or in annual installments as herein provided.

Upon the receipt of said notice by said board, it shall be its duty, by resolution either to consent to the proposed sale of the property as set forth in said notice, or withhold its consent thereto. In either event the said board shall, within five days after its action in the premises, transmit to said tax collector, a certified copy of its said resolution. Failure of the board to adopt such resolution or to transmit the same within the time prescribed, however, shall not make either void or voidable, a sale made pursuant ta such consent.

If said board of supervisors shall approve said proposed sale as aforesaid, and upon receipt of the copy of said resolution by the tax collector, it shall be the duty of the tax collector to give written notice to the party to whom the land was last assessed nearest before the sale, of such intended sale, by mailing said notice to him, postage thereon prepaid and registered, at his last known post-office address, at least twenty-one days before the date of said intended sale. The board of supervisors may, in their discretion, direct the tax collector to publish the notice of the intended sale once in a newspaper published in the county, or if there be no such newspaper then in a newspaper of general circulation in the county. Said notice shall contain the time and place of said intended sale, a description of the property to be sold, sufficient for identification, together with a statement that if redemption of said property is not effected according to law, prior to said date of sale, that all right of redemption shall cease.

At the time and place fixed for said intended sale, if no redemption of said property to be sold has been effected according to law, prior to said date so fixed for said intended sale, the tax collector shall sell and convey said property at private sale on the day and hour fixed therefor, or at any time not more than three months thereafter, for the price and the terms fixed in said notice to the board of supervisors, in lawful money of the United States.

(3) In case it is sought to sell such property at public auction under the provisions hereof, the tax collector must give notice of such sale by publication once in some newspaper published in the county or city and county, or if there be no newspaper published therein, then by posting a notice in three conspicuous places in the county or city and county, one of which shall be in the United States post office nearest the land. Such publication must be completed not less than three weeks prior to the sale. Such notices must state specifically the place and the day and hour of sale and shall contain a description of the property to be sold and shall also contain the name of the person to whom the property was assessed, on the county assessment roll for each year on which there may be delinquent taxes against said property or any part thereof. It shall be the duty of the tax collector to mail within five days, after the publication of said notice of sale a copy of said notice, postage thereon prepaid to the party to whom the land was last assessed nearest before the sale, at his last known postoffice address, and shall also mail a copy of said notice, postage prepaid, to the State Controller and clerk or secretary of the governing board of each political subdivision or taxing agency, or reclamation, irrigation, drainage or levee district having the right to levy taxes or assessments on the land involved and any such subdivision or agency, including reclamation, irrigation, drainage or levee district, or county or city having taxes or assessments levied on any parcel may bid on such parcel.

(4) All moneys received on account of any such sales shall be immediately transmitted by the tax collector to the county treasurer together with a report showing the amount of costs which the county has expended on account of the making of such sale, showing the total sums received for individual parcels, which parcels shall be identified in said report by year, page and number of delinquency roll, and a duplicate thereof shall be filed with the county auditor. The amount of expenses so reported shall be deposited in the county general fund and the balance shall be deposited in the delinquent tax sale trust fund.

(5) Upon the receipt of said duplicate report, the auditor shall mail a copy thereof to the State Controller and to the secretary or clerk of the governing board of each political subdivision or taxing agency, or reclamation, irrigation, drainage or levee district capable under the law of levying taxes or assessments upon the land covered by such sale, and shall enclose therewith a notice describing such land, and that claims on the amount received from the sale thereof must be made within a period of six months from the date of the mailing of such notices.

(6) Upon the receipt of such notices it shall be the duty of the State Controller and the governing board of any political subdivision or taxing agency, including reclamation, irrigation, drainage or levee district or county, or city, having taxes or assessments levied upon the land described in said notices to forward a claim thereon to the county auditor setting forth the amount of the tax or assessment delinquent levied on such land, by, and still unpaid to, the political subdivision or district for which said claim is being made. On the first meeting day of the board of supervisors following the expiration of six months from the date of mailing such notices, as aforesaid, by said county

auditor, the county auditor shall present all such claims received by him to the said board of supervisors and the board of supervisors, if said claims be correct, shall order the money received from the sale of each parcel of land, and also the paid or subsequent installments of the purchase price of any contract of sale, to be divided pro rata among the taxing or assessing agencies having filed claims in accordance with the proportion which such delinquent tax or assessment bears to the total of all such taxes or assessments first delinquent in each district or political subdivision involved, and the auditor shall draw and mail warrants on said delinquent tax sale trust fund in accordance with said order. If the board of supervisors dispute the correctness of any such claim, the money received from the sale of the individual parcel or parcels involved in such disputed claim shall remain in said trust fund until the settlement of said claim by agreement of the governing boards or officers of the various taxing or assessing agencies or by judgment of a court of competent jurisdiction.

(7) A deed given by the tax collector upon a sale made as in this section provided shall convey title to the purchaser free and clear of all liens, taxes, assessments or encumbrances of any kind or character whatsoever levied or assessed or liened on the property which are due at the time of such sale so conveyed prior to the date of such sale, and, except as against actual fraud, such deed duly acknowledged shall be prima facie evidence of the regularity of all proceedings from the assessment of the assessor to and including the execution of such deed.

Nothing in this section contained shall be deemed to nullify or amend the provisions of section 12 of "Improvement Bond Act of 1915" or of any provisions amendatory thereof or supplemental thereto with reference to the title acquired by a purchaser at a tax collector's sale or at a resale by the city.

(8) No action, suit or proceeding to set aside, cancel, or question the validity of any proceedings instituted under the provisions of this section shall be instituted or maintained unless the same shall have been commenced within six months after the date of the execution of the deed of the tax collector and thereafter all persons shall be barred from commencing or prosecuting any such action or maintaining any defense in any action based upon the alleged invalidity or alleged irregularity in such proceeding. The burden of proof in any such action or proceeding shall be upon the plaintiff to show invalidity of taxes, assessments, or sales of which he complains.

(9) Any deed given under this section shall be subject to any lease theretofore given under the provisions of section 3466a. (Amended. Stats. 1935, page 1437.)

Political Code, Section 3898

On receiving the purchase price at sales under the provisions of section 3897 of the Political Code, the tax collector must execute a deed to the purchaser at such sale, which deed shall be in substance, and may be in form as follows:

"This indenture made the ______ day of ______, 19___, between ______ tax collector of the county of ______, State of California, first party, and ______, of the county of ______, State of California, second party,

WITNESSETH:

That whereas the real property hereinafter described was duly sold and conveyed to the State of California for the nonpayment of taxes which had been legally levied and which were a lien upon said property under and in accordance with law, and

Whereas, in conformity with law, the State of California, acting by and through------, tax collector as aforesaid, did sell said property, hereinafter described, at a private sale to the said second party, for ------ dollars, (or in case of a sale at public auction) did offer said property hereinafter described, for sale at public auction to the highest bidder at which sale second party became the purchaser of the whole thereof for the sum of ------ dollars.

Now, therefore, the said first party in consideration of the premises and in pursuance of the statute in such cases, made and provided, does hereby grant to the second party, his heirs and assigns, that certain real property hereinbefore referred to and situate in the county of ------, State of California, more particularly described as follows, to wit:

In witness whereof, said first party has hereunto set his hand the day and year first above written.

Tax Collector of the County of

------, State of California."

No other matters need be recited in the said deed than those provided for in the above form. No charge shall be made by the tax collector for the making of any such deed, and the acknowledgment of all such deeds when executed by the tax collector shall be taken by the county clerk free of charge.

3. Within ten days after each sale, as provided in section 3897 of the Political Code, the tax collector shall report to the assessor and recorder of the county in which the lands sold are situated, giving the name or names of all persons to whom deeds have been issued under the provisions of this section, and said section 3897, together with the dates of such deeds, the amount for which the property was sold, the description of the property conveyed, together with the numbers and dates of the certificates of sale and of the tax deeds by which title to such property so granted was conveyed to the State.

4. The recorder shall note on the margin of each certificate of sale and of each tax deed involved in the sale, and transfer of such property, the name of the purchaser, the date of the deed to the purchaser, and the consideration named therein. The assessor shall use such report in his determination of the ownership of such property for assessment purposes.

5. Upon the completion of the sale, the tax collector shall report to the State Controller the date of sale, the description of the property, the name of the purchaser, and the amount of money received for the property sold.

6. (a) Whenever in any action at law it has been, or shall be determined by a court that the sale and conveyance provided for in this section and section 3897 of the Political Code, or in section 3771 of the Political Code, heretofore or hereafter made, are void for any reason,

and that the purchaser from the State may not be finally awarded the property so purchased, no decree of the court shall be given declaring a forfeiture of the property until the former owner or other party in interest shall have repaid to the purchaser the full amount of taxes, penalties, and costs, paid out and expended by him, to be determined by the court, in pursuit of the State's title to the property so sold. The said purchaser may, within one year after such decree becomes final, also present a claim against the county in the manner provided by law for a refund of the amount paid into the county treasury as the purchase price of such property in excess of the amount for which he may have been reimbursed for taxes, penalties and costs, as herein provided, and such excess shall be refunded in accordance with section 3804 of this code.

(b) Whenever it shall be determined to the satisfaction of the board of supervisors of the county in which the land is situated that any land belonging to the United States Government or to this State, a municipality or other political subdivision of this State has been erroneously sold and conveyed under the provisions of this section or section 3897, or section 3771 of this code, and the said land should not have been so sold, the purchaser at said sale may present a claim against the county in the manner provided by law for a refund of the amount so paid into the county treasury by reason of such sale and such claim shall be paid by the county treasurer as provided in section 3804 of the Political Code of the State of California. (Amended Stats. 1937, p. 2522.)

DRAINAGE BY IRRIGATION DISTRICTS

An act to provide for drainage by irrigation districts.

(Approved March 18, 1907, Stats. 1907, p. 569.)

District May Provide Drainage

SECTION 1. Any irrigation district heretofore organized or hereafter to be organized under the laws relating to such districts may provide for any and all drainage made necessary by the irrigation provided for by such laws; and the officers, agents and employees of such districts shall have the same powers, duties and liabilities respecting such drainage, and the construction, repair, maintenance, management and control thereof as they now have or may hereafter have respecting such irrigation, and all laws respecting such irrigation or such irrigation districts shall be so construed, applied and enforced as to apply to such drainage as well as such irrigation.

Duty of Directors to Provide Drainage

SEC. 2. Whenever it appears necessary, or proper, or beneficial to the lands affected thereby, to drain such lands or any portion thereof on account of the irrigation which has been done, or which is intended to be done under such laws, whether for the purpose of more beneficially carrying on such irrigation, or to protect such districts from liability by reason of such irrigation, whether the irrigation works have already been constructed or not, it shall be the duty of the board of directors to provide for such drainage, and said board and its officers, agents and employees shall do all necessary and proper acts for the construction, repair, maintenance and management of drainage work for such purpose.

Effective Date

SEC. 3. This act shall take effect immediately.

Sutro Heights vs. *Merced,* 211 Cal. 670, 296 Pac. 1088;
Edmunds vs. *Glenn-Colusa Irr. Dist.,* 217 Cal. 436, 19 Pac. (2d) 502.
Spurrier vs. *Mitchell Irr. Dist.,* 74 A. L. R. 884;
Middlekamp vs. *Bessemer,* 23 L. R. A. (N. S.) 801.

DEVELOPMENT OF ELECTRIC POWER

An act to provide for the development of electrical power by irrigation districts.

(Approved May 21, 1919, Stats. 1919, p. 778; amended 1921, pp. 829, 1083; 1923, p. 629.)

Irrigation District May Develop Power

SECTION 1. Any irrigation district heretofore organized or hereafter to be organized under the laws relating to such district may provide for the construction, acquisition, operation, leasing and control of plants for the generation, distribution, sale and lease of electrical energy including sale to municipalities, corporations, public utility districts, or individuals, of electrical power so generated; and said district, subject, however, to the conditions in this section contained, may make special appropriations of water for power purposes, as required by law; provided, however, that any use of water for generating such electrical power or energy at any given time of the year, which use is in excess of the water appropriated and beneficially used for irrigation purposes by such district at said period of the year, shall be subject to all prior existing appropriations by any municipal corporation, who or which is proceeding in good faith in the expenditure of money and the construction of works designed to divert the water appropriated. The officers, agents and employees of such districts shall have the same powers, duties and liabilities respecting such power and the construction, acquisition, repair, maintenance, management and control thereof as they now have or may hereafter have respecting such irrigation or such irrigation districts. The California irrigation district act shall be so construed, applied and enforced as to apply to such power as well as such irrigation, except that nothing in said act shall be so construed as to prevent the sale of power by any district for use outside of the boundaries of such district or to require the distribution of such power in accordance with any assessments levied by such district. (Amended, Stats. 1923, p. 629.)

Yolo vs. *Modesto Irr. Dist.,* 216 Cal. 274, 13 Pac. (2d) 908.

Management of Works

SEC. 2. The board of directors of any irrigation district and its officers, agents and employees, shall do all necessary and proper acts for the construction, repair, maintenance, and management of such electrical power works for such purposes.

Issuance of Bonds

SEC. 3. In case funds are not otherwise available an irrigation district may issue bonds for such purpose and all of the provisions of the California irrigation district act, relating to the issuance of bonds for other purposes, and all other acts relative to bonds issued under the California irrigation district act, in so far as the same are applicable to said bonds shall apply. (Amended, Stats. 1921, p. 829.)

Conflicting Acts Repealed

SEC. 4. All acts or parts of acts in conflict with any of the provisions of this act are hereby repealed.

RIGHTS OF WAY FOR POWER LINES

An act granting to irrigation districts of the State of California the right to construct, operate and maintain electric light and power lines along or upon any road, street, alley, avenue or highway, or across any railway, canal, ditch or flume.

(Approved May 25, 1923, Stats. 1923, p. 449.)

Rights of Way for Irrigation District Electric Light and Power Lines

SEC. 1. That there is granted to every irrigation district of the State of California the right to construct, operate and maintain electric light and electric power lines along or upon any road, street, alley, avenue or highway, or across any railway, canal, ditch or flume which the route of such work intersects, crosses or runs along in such manner as to afford security for life and property, but the irrigation district shall restore the road, street, alley, avenue, highway, railway, canal, ditch or flume thus intersected to its former state of usefulness as near as may be; provided, however, that such irrigation ditch may not use any street, alley, avenue or highway within any city for such purpose, unless the right so to use the same is granted by a vote of the governing body of such city which shall have the right to impose reasonable conditions upon such use; provided, also, that such grant of authority shall not be necessary in any case where the street, alley, avenue or highway, or a portion thereof, proposed to be used for the purpose of constructing, operating or maintaining any such works, or any part thereof, is a necessary or convenient part of the route of such works and at the time construction thereof was commenced, or the plans adopted therefor, was located in territory not then within an organized city.

CHAPTER IV

THE COUNTY WATER DISTRICT ACT

Preliminary Statement

Petitions for the consolidation of two or more county water districts and contracts between such districts and the United States are subject to review and report by the State Engineer. Bonds of these districts may also be validated for certification by the California Districts Securities Commission. None of the other procedures under the County Water District Act are subject to the authority of any State agency. Many amendments broadening the executive powers under this act have been adopted since the passage of the act in 1913, and as it exists at present it corresponds closely in many respects to the procedure provided in the California Irrigation District Act. Some thirty districts throughout the State, in most of which the securing of a domestic water supply was a relatively large factor in influencing their organization, are operating under the County Water District Act.

THE COUNTY WATER DISTRICT ACT

An act to provide for the incorporation and organization and management of county water districts, and to provide for the acquisition of water rights or construction thereby of water works and for the acquisition of all property necessary therefor, and also to provide for the distribution and sale of water by said districts.

(Approved June 10, 1913, Stats. 1913, p. 1049; amended Stats. 1915, p. 26; 1917, p. 225; 1919, p. 816; 1923, p. 312; 1925, pp. 530, 987; 1927, p. 290; 1929, p. 1159; 1931, pp. 70, 81, 83, 2511; 1933, p. 2252; 1935, pp. 2103, 2185; 1937, p. 102 and 1423.

ORGANIZATION

Organization of District

SECTION 1. A county water district may be organized and incorporated and managed as herein expressly provided and may exercise the powers herein expressly granted or necessarily implied.

Coachella V. Co. Water Dist. vs. *Stevens,* 206 Cal. 400, 406, 266 Pac. 341, 274 Pac. 538;
Galt County Water Dist. vs. *Evans,* 10 C. A. (2d) 116, 51 Pac. (2d) 202;
Sacramento Mun. Utilities Dist. vs. *All Persons,* 91 C. D. 690.

Who May Organize

SEC. 2. The people of any county, or city and county, or portion of a county, or city and county, whether such portion includes unincorporated territory or not, in the State of California, having a population of not less than three hundred inhabitants, may organize a county water district under the provisions of this act by proceeding as herein provided. (Amended Stats. 1931, p. 81.)

People vs. Lake County Water Dist., 183 Cal. 137, 138, 190 Pac. 630

Petition and Election

SEC. 3. A petition, which may consist of any number of separate instruments, shall be presented at a regular meeting of the board of supervisors of the county in which the proposed water district is located, signed by the registered voters within the boundaries of the proposed water district, equal in number to at least ten per centum of the number of votes cast in said proposed county water district for the office of Governor of this State at the last general election prior to the presenting of the petition; provided, that where one or more municipal corporations or part thereof is included in such proposed water district, such petition must be signed by at least ten per centum of the qualified electors of each such municipal corporation or part thereof and of the unincorporated territory included in such proposed water district so voting at such election. Such petition shall set forth and describe the proposed boundaries of such water district, and shall pray that the same be incorporated under the provisions of this act, and the text of such petition shall be published for at least two weeks before the time at which the same is to be presented in at least one, but not to exceed three, newspapers printed and published in such county, together with a notice stating the time of the meeting at which same will be presented. When contained upon more than one instrument, one copy only of such petition need be published. No more than five of the names attached to said petition need appear in such publication of said petition and notice, but the number of signers shall be stated.

With such publication there shall also be published a notice of the time of the meeting of the board when such petition will be considered and that all persons interested therein may then appear and be heard. At such time the board of supervisors shall hear the petition and those appearing thereon together with such writen protests as shall have been filed with the clerk of the board prior to such hearing by or on behalf of owners of taxable property situated within the boundaries of the proposed district and may adjourn such hearing from time to time, not exceeding four weeks in all. No defect in the contents of the petition or in the title to or form of the notice or signatures, or lack of signatures, thereto shall vitiate any proceedings thereon, provided such petition or petitions have a sufficient number of qualified signatures attached thereto. On the final hearing said board shall make such changes in the proposed boundaries as may be deemed advisable and shall define and establish such boundaries. But said board shall not modify said boundaries so as to exclude from such proposed district any territory which would be benefited by the formation of such district; nor shall any lands which will not, in the judgment of said board, be benefited by such district be included within such proposed district. Any person whose lands are benefited by such district may upon his application, in the discretion of said board, have such lands included within said proposed district.

Upon such hearing of said petition, the board of supervisors shall determine whether or not said petition complies with the requirements of the provisions of this act, and for that purpose must hear all competent and relevant testimony offered in support of or in opposition thereto. Such determination shall be entered upon the minutes of said board of supervisors. A finding of the board of supervisors in favor of the genuineness and sufficiency of the petition and notices shall be final and conclusive against all persons except the State of California upon suit commenced by the Attorney General. Any such suit must be commenced within one year after the order of the board of supervisors declaring such district organized as herein provided, and not otherwise. Upon the final determination of the boundaries of the district the board of supervisors shall give notice of an election to be held in said proposed water district for the purpose of determining whether or not the same shall be incorporated, the date of which election shall be not more than sixty days from the date of the final hearing of such petition. Such notice shall describe the boundaries so established and shall state the proposed name of the proposed incorporation (which name shall contain the words "--------county water district"), and this notice shall be published at least two weeks prior to such election in at least one, but not to exceed three, newspapers printed and published in said county. At such election the proposition to be submitted shall be: "Shall the proposition to organize------------county water district under (naming the chapter containing this act) of the acts of the fortieth session of the California Legislature and amendments thereto be adopted?" And the election thereupon shall be conducted, the vote canvassed and the result declared in the same manner as provided by law in respect to general elections, so far as they may be applicable, except as in this act otherwise provided. No person shall be entitled to vote at any election under the provisions of this act unless such person possesses all the qualifications required of electors under the general election laws of the State. Within four days after such election the vote shall be canvassed by the board of supervisors. If a majority of the votes cast at such election in each municipal corporation or part thereof and in the unincorporated territory included in such proposed water district shall be in favor of organizing such county water district, said board shall by an order entered on its minutes declare the territory enclosed within the proposed boundaries duly organized as a county water district under the name theretofore designated, and the county clerk shall immediately cause to be filed with the Secretary of State and shall cause to be recorded in the office of the county recorder of the county in which such district is situated, each, a certificate stating that such a proposition was adopted. Upon the receipt of such last mentioned certificate the Secretary of State shall, within ten days, issue his certificate reciting that the county water district (naming it) has been duly incorporated according to the laws of the State of California. A copy of such certificate shall be transmitted to and filed with the county clerk of the county in which such county water district is situated. From and after the date of such certificate, the district named therein shall be deemed incorporated as a county water district, with all the rights, privileges and powers set forth in this act and necessarily incident thereto. In case less than a majority of the votes cast are in favor of said proposition the organization fails but without prejudice to renewing proceedings at any time in the future. (Amended, Stats. 1915, p. 26.)

People vs. *Lake Co. Water Dist.*, 183 Cal. 137, 138, 143, 190 Pac. 630;
Sleeper vs. *Board of Suprs*, 60 Cal. App. 744, 746, 214 Pac. 292;
San Gabriel Co. Water Dist. vs. *Richardson*, 68, Cal. App. 297, 298, 301, 228 Pac. 1055;
Dunbarton Land and Improvement Co. vs. *Murphy*, 32 Cal. App. 626. 163 Pac. 866.

Election for Directors

SEC. 4. Within ninety days after the date of filing with the county clerk of the copy of the certificate of the Secretary of State, provided for in section 3 of this act, the board of supervisors of the county in which the county water district is located shall make and cause to be entered upon its minutes at a regular meeting thereof an order calling an election in such county water district for the election of a board of directors for the county water district consisting of five members, each of whom shall be a resident of and qualified to vote at elections of the district.

The order of the board of supervisors shall fix the date of the election which shall not be more than sixty days after the date of the order calling the election. The order shall also create one or more voting precincts within the district and establish a polling place in each precinct and appoint a board of election, consisting of one inspector, one judge and two clerks, to hold, conduct and make returns of the election.

The county clerk shall give notice of the election by publishing notice thereof for at least two weeks in one but not to exceed three newspapers published in the county. The notice of election so published shall state the purpose for which the election is to be held. describe the voting precincts, state the location of the polling place for each precinct, the name and position of the persons appointed election officers and the date on which the election will be held.

The election shall be conducted in accordance with the general election laws of the State so far as the same may be applicable and the returns canvassed by the board of supervisors of the county at its regular meeting next succeeding the date of the election.

All directors elected or appointed shall hold office until the election and qualification of their successors. The term of office of directors elected under the provisions of this act shall be four years from and after the date of their respective election; provided, that the directors first elected after the incorporation of the county water district shall classify themselves by lot so that two of them shall hold office until the election and qualification of their successors at the first succeeding general water district election, and three of them shall hold office until the election and qualification of their successors at the second succeeding general water district election.

All vacancies occurring in the office of directors shall be filled by appointment by the remaining directors elected and the person so appointed shall have all of the qualifications necessary to be elected a director, and shall hold office during the unexpired term.

The election of directors of the district shall be held in every second year after its organization, on the fourth Tuesday in March, and shall be known as the general water district election. A second election shall be held, when necessary, as hereinafter provided, on the third Tuesday after such general election and shall be known as the second water district election. All other elections which may be held by authority of this act, or of the general laws, shall be known as special water district election. All the expenses of holding the elections provided for by this section or by succeeding sections of this act, except sections 25 and 25a, shall be borne by the district.

The directors elected in any district, now existing, at the first election held in said district after the year 1933, shall, at the first meeting of the board, classify themselves by lot so that two of them shall hold office until the election and qualification of their successors at the first succeeding general water district election and three of them shall hold office until the election and qualification of their successors at the second succeeding general water district election. (Amended, Stats. 1925, p. 530; Stats. 1933, p. 2252; Stats. 1937, p. 102.

Election by Divisions

Sec. 4a. The board of directors may, if it deems it to be for the best interest of the district, by resolution submit to the qualified electors at a special or general water district election the question whether the directors of the district shall be elected by divisions. If such question is so submitted, the notice of election and the ballot shall contain a statement of the question and the election shall be conducted as nearly as practicable as required at other district elections.

If at such election the majority of the electors voting upon said question shall approve the election of directors by divisions, then:

(a) The board of directors shall promptly after such election by resolution divide the district into five divisions, as nearly equal in acreage as may be practicable, and assign a number to each division; and said board may thereafter, at any time, but not less than sixty days before a general water district election, by resolution change the boundaries of the divisions, so as to keep them as nearly equal in size as may be practicable; and

(b) Said board shall, not less than sixty days prior to the next succeeding general water district election, by resolution designate which divisions shall elect directors at such election to succeed the directors whose terms then expire and the remaining divisions shall elect directors at the next general water district election following such election; and

(c) Directors shall be residents of the divisions by which they are elected. (Added, Stats. 1935, p. 2185.)

Nomination and Election of Directors

Sec. 5. (1) The mode of nomination and election of all directors of such water district to be voted for at any water district election shall be as follows and not otherwise:

(2) The name of a candidate shall be printed upon the ballot when a certificate of nomination shall have been filed in his behalf in the manner and form and under the conditions hereinafter set forth.

(3) The certificate of nomination shall consist of one or more parts, signed by not less than twenty-five qualified electors residing within said district. Said certificate shall read substantially as follows:

Certificate of Nomination.

State of California }
County of_________ } ss.

We, the undersigned, certify that we do hereby join in a certificate of nomination of ______, whose residence is at ______, in said county and State, for the office of director of ______ county water district to be voted for at the election to be held in said district on the ______ day of ______, 19___, and each of us further certifies that he is a qualified elector residing within said district and is not at this time a signer of any other certificate nominating any other candidate for the above named office, or, in case there are several places to be filled in said office, that he has not signed more certificates than there are places to be filled in said office; that his residence and occupation are as hereinafter stated.

Signature.	Residence.	Occupation.
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Verification Deputy's Affidavit.

State of California }
County of_________ } ss.

I, ______, solemnly swear that I have been appointed according to provisions of the County Water District Act as a verification deputy to secure signatures to a certificate of nomination of ______ as a candidate for election to the office of director, of ______ county water district; that all the signatures on this section of said certificate were made in my presence and that to my knowledge and belief each of said signatures is the genuine signature of the person whose name it purports to be.

Verification Deputy.

Subscribed and sworn to before me this ______ day of ______, 19__.

Notary Public (or other official).

The certificate of nomination of which this section forms a part shall, if found sufficient, be returned to said vertification deputy at No. ______ Street, ______, California.

(4) It shall be the duty of the county clerk to furnish upon application a reasonable number of forms of certificate of nomination. All certificates must be of uniform size as determined by the county clerk. Each signer of a certificate must not at the time of signing a certificate have his name signed to any other certificate for any other candidate for the same office, nor, in case there are several places to be filled in the same office, signed to more certificates for candidates for said office than there are places to be filled in such office. In case an elector has signed two or more conflicting certificates, all his signatures shall be rejected.

(5) The candidate or any five qualified electors of the district may appoint verification deputies to secure the signatures to certificates of nomination and the document in which such verification deputies are appointed, as herein provided, shall be filed with the county clerk at

or before the time the certificate of nomination is left with the county clerk for filing or for examination. Said document shall be in substantially the following form:

Form for Appointment.

The undersigned hereby appoint__ the following qualified electors of ______ county water district as verification deputies to obtain signatures to a certificate of nomination nominating ______ as a candidate for the office of director of said district at an election to be held in said district on the ______ day of ______, 19___.

Name.	Address.
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------------------------	------------------------
------------------------	------------------------
------------------------	------------------------

Dated this ______ day of ______, 19___.

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Residence.	Signature.

(6) The certificate of nomination consisting of one or more parts may be presented to the county clerk not earlier than forty-five days nor later than thirty days before the election. The county clerk shall endorse thereon the date upon which the certificate was presented to him and shall forthwith examine the same and ascertain whether or not it conforms to the provisions of this section. If found not to conform thereto, he shall immediately, in writing, designate on said petition the defect or omission or reason why such certificate can not be filed and shall return the certificate to the person therein designated. The certificate may then be amended and again presented to the clerk as in the first instance and he shall forthwith examine the same. If necessary the board of supervisors shall provide extra help to enable the clerk to perform satisfactorily and promptly the duties imposed by this section.

(7) Any signer of a certificate of nomination may withdraw his name from the same by filing with the county clerk a written revocation of his signature before the certificate is filed by the clerk and not otherwise. He shall then be at liberty to sign a certificate for another candidate for the same office.

(8) Any person who has been nominated under this section as a candidate may, not later than twenty-five days before the day of election, cause his name to be withdrawn from nomination by filing with the county clerk a written request therefor. No name so withdrawn shall be printed upon the ballot. If, upon such withdrawal, the number of candidates remaining does not equal the number to be elected, then other nominations may be made by filing certificates therefor not later than twenty-five days prior to such election.

(9) If either the original or amended certificate of nomination be found sufficiently signed, the clerk shall file the same twenty-five days

before the date of the election. When a certificate of nomination shall be filed with the clerk it shall not be withdrawn nor added to.

(10) The county clerk shall preserve in his office, for a period of two years, all certificates of nomination filed under this section.

(11) Immediately after such certificates are filed, the county clerk shall enter the names of the candidates in a list, with the offices to be filled, and shall, not later than twenty days before the election, certify such list as being the list of candidates nominated, and the board of supervisors shall cause said certified list of names and the offices to be filled to be published in a proclamation calling an election at least once a week for two successive weeks next before the date of the election in some newspaper of general circulation published in the district and designated by the board of directors of the district. In case there is no newspaper of general circulation published in the district, such board of directors may designate any newspaper of general circulation published in the county. Such proclamation shall conform in all respects to the general State law governing the conduct of general elections now or hereafter in force, applicable thereto, except as otherwise herein provided.

(12) The county clerk shall cause the ballots to be printed and bound and numbered as provided by said general State law, except as otherwise required in this act. The ballots shall contain the list of names and the respective offices as published in the proclamation and shall be in substantially the following form:

General (or Special) District Election,

______ County Water District.

(Insert date thereof.)

Instructions to Voters: To vote, stamp or write a cross (+) opposite the name of the candidate for whom you desire to vote. All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void. If you wrongly mark, tear or deface this ballot, return it to the inspector of election, and obtain another.

(13) All ballots printed shall be precisely on the same size, quality, tint of paper, kind of type, and color of ink, so that without the number it would be impossible to distinguish one ballot from another; and the names of all candidates printed upon the ballot shall be in type of the same size and style. A column may be provided on the right-hand side for questions to be voted upon at water district elections, as provided for under this act. The names of the candidates for each office shall be arranged in alphabetical order, and nothing on the ballot shall be indicative of the source of the candidacy or of the support of any candidate.

(14) The ballot shall contain the following instructions: ''For director vote for (giving number).''

(15) A half-inch square shall be provided at the right of the name of each candidate wherein to mark the cross.

(16) Half-inch spaces shall be left below the printed names of candidates for each office equal in number to the number to be voted for, wherein the voter may write the name of any person or persons for whom he may wish to vote.

(17) The county clerk shall cause to be printed sample ballots. identical with the ballot to be used at the election, and shall furnish copies of the same on application to registered voters at his office at least five days before the date fixed for such election, and shall mail one such ballot to each voter entitled to vote at such election, so that all of said sample ballots shall have been mailed at least three whole days before said election.

(18) In case there is but one person to be elected to an office, the candidate receiving a majority of the votes cast for the candidates for that office shall be declared elected; in case there are two or more persons to be elected to an office, then those candidates equal in number to the number to be elected, who receive the highest number of votes for such office shall be declared elected; provided, however, that no person shall be declared elected to any office at such first election unless the number of votes received by him shall be greater than one-half the number of ballots cast at such election.

(19) If at any election held as above provided there be any office to which the required number of persons was not elected, then as to such office the said first election shall be considered to have been a primary election for the nomination of candidates, and a second election shall be held to fill said office. The candidates not elected at such first election, equal in number to twice the number to be elected to any given office, or less if so there be, who receive the highest number of votes for the respective offices at such first election, shall be the only candidates at such second election; provided, that if there be any person who, under the provisions of this subdivision, would have been entitled to become a candidate for any office, except for the fact that some other candidate received an equal number of votes therefor, then all such persons receiving such equal number of votes shall likewise become candidates for such office. The candidates equal in number of the persons to be elected who shall receive the highest number of votes at such second election shall be declared elected to such office.

(20) The said second election, if necessary to be held, shall be held three weeks after the first election.

(21) All the provisions and conditions above set forth as to the conduct of an election, so far as they may be applicable, shall govern the second election, except that notice of election need be published twice only; and provided, also, that the same precincts and polling places shall, if possible, be used.

(22) If a person elected fails to qualify, the office shall be filled as if there were a vacancy in such office, as provided in section 4 of this act.

(23) No informality in conducting district elections shall invalidate the same. (Amended, Stats. 1933, p. 2252; Stats. 1935, p. 2103.)

General Laws to Govern

Sec. 6. The provisions of the law relating to the qualifications of electors, the manner of voting, the duties of election officers, the canvassing of returns, and all other particulars in respect to the management of general elections, so far as they may be applicable, shall govern all water district elections, except as in this act otherwise provided; provided, that the board of supervisors shall canvass the returns of the first election and that thereafter, except as herein provided, the board of directors shall meet as a canvassing board and duly canvass the returns within four days after any water district election, including any water district bond election.

Officers Subject to Recall

SEC. 7. Every incumbent of the office of director, whether elected by popular vote for a full term, or appointed by the board of directors to fill a vacancy, is subject to recall by the voters of any county water district organized under the provisions of this act, in accordance with the recall provisions of the general laws of the State applicable to officers of counties. (Amended, Stats. 1935, p. 2103.)

Organization of Board

SEC. 8. The board of directors shall be the governing body of such county water district. It shall hold its first meeting on the sixth Monday after the first general election for the election of directors as herein provided; it shall choose one of its members president, and shall thereupon provide for the time and place of holding its meetings and the manner in which its special meetings may be called. All legislative sessions of the board of directors whether regular or special shall be open to the public. A majority of the board of directors shall constitute a quorum for the transaction of business. The board of directors shall establish rules for its proceedings.

Mode of Action by Board

SEC. 9. The board of directors shall act only by ordinance, resolution or motion. Except where action shall be taken by the unanimous vote of all directors present and voting, the ayes and noes shall be taken upon the passage of all ordinance, resolutions or motions and entered upon the minutes of the board. No ordinance, resolution or motion shall be passed or become effective without the affirmative votes of at least a majority of the members of the board. The enacting clause of all ordinances passed by the board shall be in these words: "Be it ordained by the board of directors of ______ County water district as follows:" All ordinances shall be signed by the president of the board of directors and attested by the secretary. Each director shall receive the sum of ten dollars for each meeting of the board of directors attended by him, not exceeding three meetings in any calendar month, and such additional compensation not exceeding ten dollars per day as shall be fixed and allowed by the board for his services while otherwise employed by authority of the board in the business of the district. He shall also be allowed, with the approval of the board of directors, all traveling and other expenses reasonably incurred by him in such employment. (Amended, Stats. 1927, p. 290; Stats. 1933, p. 2252.)

Appointment of General Manager, Secretary and Auditor

SEC. 10. The board of directors shall at its first meeting, or as soon thereafter as practicable, appoint, by a majority vote. a general manager, a secretary, and an auditor. No director shall be eligible to the office of general manager, secretary or auditor. The general manager, secretary, and auditor shall receive such compensation as the board of directors shall determine, and each shall serve at the pleasure of the board.

The same person may be appointed as general manager and secretary, or as secretary and auditor. The board of directors may at any time also appoint or employ and prescribe the authorities and duties of such other officers and employees, attorneys and engineers as may be necessary or convenient for the business of the district, each of whom shall serve at the pleasure of the board. (Amended, Stats. 1933, p. 2252.)

Informality Not to Invalidate

SEC. 11. No informality in any proceeding or informality in the conduct of any election, not substantially affecting adversely the legal rights of any citizen, shall be held to invalidate the incorporation of any county water district, and any proceeding wherein the validity of such incorporation is denied shall be commenced within three months from the date of the certificate of incorporation, otherwise said incorporation and the legal existence of said county water district, and all proceedings in respect thereto, shall be held to be valid and in every respect legal and incontestable.

POWERS AND DUTIES

Powers of District

SEC. 12. Any county water district incorporated as herein provided shall have power:

1. To have perpetual succession;

2. To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction;

3. To adopt a seal and alter it at pleasure;

4. To take by grant, purchase, gift, devise, or lease; to hold, use, enjoy, and to lease or dispose of real and personal property of every kind, within or without the district, necessary to the full exercise of its powers;

5. To construct, purchase, lease or otherwise acquire water works and other works and machinery, canals, conduits and reservoirs, and to purchase, lease or otherwise acquire water rights, storage sites, watersheds, lands, rights and privileges, useful or necessary to convey, supply, store or otherwise make use of water for irrigation, power or other useful purposes, and to operate and maintain such water rights, water works, canals, conduits, reservoirs, storage sites, watersheds, works, machinery, lands, rights and privileges for the uses aforesaid for the benefit of the district;

6. To store water for the benefit of the district; to conserve water for future use; to appropriate, acquire and conserve water and water rights for any useful purpose; to commence, maintain, intervene in and compromise, in the name of the district, and to assume the costs of any action or proceeding involving or affecting the ownership or use of waters or water rights within the district used or useful for any purpose of the district or a benefit to any land situated therein; to commence, maintain, intervene in, defend and compromise actions and proceedings to prevent interference with or diminution of the natural flow of any stream or natural subterranean supply of waters used or useful for any purpose of the district or a common benefit to the lands within the district or its inhabitants; and to commence, maintain and defend actions and proceedings to prevent any such inter-

ference with the aforesaid waters as may endanger the inhabitants or lands of the district;

7. To lease of and from any person, firm or public or private corporation, with the privilege of purchase, or otherwise, existing water rights, water works, canals, or reservoir systems; and to carry on and maintain the same; also to sell water, or the use thereof, for irrigation, power, or other useful purposes, and whenever there is a surplus, sell, or otherwise dispose of the same, to municipalities, or towns, or to consumers, located, within or without the boundaries of the district;

8. To have and exercise the right of eminent domain in the manner provided by law for the condemnation of private property for public use, to take any property necessary to supply the district or any portion thereof with water, whether such property be already devoted to the same use or otherwise, and may condemn any existing water rights, canals, reservoirs, storage sites, watersheds, water works or systems, or any portion thereof owned by any person, firm or corporation; provided that property and water rights of municipal corporations shall not be subject to the provisions of this section. In proceedings relative to the exercise of such right, the district shall have the same rights, powers and privileges as a municipal corporation;

9. To cooperate and contract with the United States, under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto, or any other act of Congress heretofore or hereafter enacted, authorizing or permitting such cooperation or contract for purposes of construction of works, whether for irrigation, drainage, flood control or for the development of electric or other power, or for the acquisition, purchase, extension, operation or maintenance of such works, or for a water supply, or for the assumption as principal or guarantor of indebtedness to the United States, and to carry out and perform the terms of any contract so made; and for said purposes the district shall have all powers, rights and privileges possessed by irrigation districts and exercise such powers, rights and privileges in the same manner as irrigation districts, all as provided in that certain act of the Legislature of the State of California entitled "An act to authorize irrigation districts to cooperate and contract with the United States under the provisions of the Federal reclamation laws for a water supply, or the construction, operation or maintenance of works, including drainage works, or for the assumption by the district of indebtedness to the United States on account of district lands; and to provide the manner and method of payment to the United States under such contract, and for the apportionment of assessments, and levy thereof, upon the lands of the district to secure revenue for such payments, and to provide for the judicial review and determination of the validity of the proceedings in connection with such contract," approved May 5, 1917, as such act now exists or may hereafter be amended; provided that if any section, subsection, sentence, clause or phrase of said act of May 5, 1917, is for any reason held to be unconstitutional, such decision shall not affect the validity of the adoption by reference herein of the remaining portions of said act of May 5, 1917, and the Legislature hereby declares that it would have referred to

and incorporated by reference in this act the provisions of said act of May 5, 1917, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases of said act of May 5, 1917, be declared unconstitutional; and provided further, that in any such contract made between a county water district and the United States, the lands which may be charged with any taxes or assessments under such contract, shall be designated and described, and the contract shall not include any lands which are not susceptible of service with water from the water works or system contemplated under such contract. The proceedings for voting at an election upon a proposal to enter into such contract with the United States shall be had in so far as applicable in the manner provided in the case of the ordinary issuance of bonds by county water districts. Notwithstanding any provision of said act of May 5, 1917, as such act now exists or may hereafter be amended, or any other provision of this act or other law, when any district has contracted with the United States under the provisions of this or any other act for the construction of works or for the acquisition, purchase, extension, operation or maintenance of such works or for water supply, then, in the event that the revenues of the district from water rates shall be, or in the judgment of the board of directors are likely to be, inadequate to pay all charges payable to the United States under such contract, and all charges for construction, acquisition, operation and maintenance of any irrigation, drainage, flood control or power system or works acquired or constructed under such contract, any tax or assessment, general or special levied for the payment of any of said charges in any manner provided by law shall be levied only upon land exclusive of improvements and personal property in the portion of such district to be served with water under such contract as therein described or thereunder modified;

10. To borrow money and incur indebtedness and to issue bonds or other evidences of such indebtedness; also to refund or retire any indebtedness or lien that may exist against the district or property thereof;

11. To cause taxes to be levied for the purpose of paying any obligation of the district and to accomplish the purposes of this act in the manner herein provided;

12. To make contracts, to employ labor and to do all acts necessary for the full exercise of the foregoing powers. The board of directors of the district may, but shall not be required to, cause to be performed or carried out construction or other work by contract or by the district, under its own superintendence in any manner authorized as to irrigation districts in section 53 of the California Irrigation District act, as now existing or as hereafter amended;

13. To contract with the United States upon such terms as the board of directors may find to be to the best interest of the district, for permanent or temporary service of water to Indian lands lying within the exterior boundaries of the district;

14. To sell or lease any lands belonging to the district for oil, gas or other hydrocarbon substances or other minerals, when deemed by

the board for the best interest of the district. (Amended, Stats. 1935, p. 2103.)

> *Coachella V. Co. Water Dist.* vs. *Stevens,* 206 Cal. 400, 406, 409, 274 Pac. 538;
> *Eden Township Water Dist.* vs. *City of Hayward,* 218 Cal. 634, 636, 24 Pac. (2d) 492;
> *People* vs. *Lake County Water District,* 183 Cal. 137, 140, 190 Pac. 630.

Mosquito Abatement

Sec. 12.1. Any county water district, when the board of directors determine by resolution that it is for the best interests of the district, shall have and may exercise all of the powers of a mosquito abatement district organized under the act of the Legislature of the State of California, entitled "An act for the formation, government, operation and dissolution of mosquito abatement districts in any part of the State, to facilitate the extermination of mosquitoes, flies and other insects; and to provide for the assessment, levy, collection and disbursement of taxes therein," approved May 29, 1915, as amended. The board of directors of such county water district, when such resolution has been adopted, may perform all functions permitted to boards of trustees of mosquito abatement districts. All money required to carry on said functions shall be raised in the manner provided in this act. The provisions of this section shall not be operative within any county water district, or part thereof, which lies within any mosquito abatement district, nor shall any tax be levied or collected on any property within any mosquito abatement district to carry out the provisions of this section, unless the board of trustees of such mosquito abatement district shall, by resolution duly adopted, agree thereto. (Added, Stats. 1937, p. 1423.)

ANNEXATION WITH OR INCLUSION IN MUNICIPAL UTILITY DISTRICT

Sec. 12a. Any district organized under the provisions of this act may be annexed to or included within the territory of any municipal utility district organized under the provisions of that certain act entitled "An act to provide for the organization, incorporation, and government of municipal utility districts, authorizing such districts to incur bonded indebtedness for the acquisition and construction of works and property, and to levy and collect taxes to pay the principal and interest thereon," approved May 23, 1921, as amended, and such annexation or inclusion shall not destroy the identity or legal existence of any district organized under this act, notwithstanding the identity of purpose or substantial identity of purpose of the municipal utility district to which or into which any district organized under this act is included or annexed.

Any such annexation may be effected pursuant to the provisions of any law now or hereafter enacted providing for the annexation of county water districts to municipal utility districts, and all such laws are hereby incorporated herein and made a part hereof. The legislative body of any county water district may agree in writing with the board of directors of said municipal utility district upon the terms and conditions of such annexation, which agreement (among other things) may provide for the payment of special taxes within the county water district to be annexed in addition to the taxes elsewhere in said municipal utility district act provided for, the fixing of rates, rentals and charges differing from those fixed or existing elsewhere within said municipal utility district, the incurring or assumption of indebtedness or the making of a payment or payments or the transfer of property, real and personal, and other assets to said municipal utility district in consideration of the annexation of such county water district to said municipal utility district.

If a proposition for the annexation of such county water district to said municipal utility district, in accordance with and subject to all of the terms and conditions of such agreement of annexation, is approved by a majority of the voters of such county water district at an election called and held as required by the terms of the act under which said municipal utility district is organized, said proposition and all of the terms and conditions of said agreement of annexation shall be deemed to have been carried and approved by the electors, and the legislative body of such county water district shall be empowered to comply with the terms and conditions of said agreement of annexation and to execute and deliver any and all contracts, agreements, deeds and other instruments as may be required to carry out the terms and conditions of said annexation agreement. If such agreement of annexation provides for the transfer of any property or assets of the county water district the same shall be automatically transferred to and vest in said municipal utility district by operation of law upon the annexation of said county water district.

If such annexation or inclusion shall be made pursuant to any agreement or contract entered into in accordance with the provisions of this act whereby the properties or assets of any district organized under this act are transferred such district shall, nevertheless, in the case of such annexation or inclusion, continue its legal existence, with all powers of a county water district under the terms of this act, until otherwise dissolved pursuant to any law now or hereafter enacted for that purpose.[1] (Stats. 1931, p. 70.)

Galt County Water District vs. *Evans,* 10 C. A. (2d) 116, 51 Pac. (2d) 202.

POWERS AND DUTIES OF BOARD AND OFFICERS

Powers Exercised by Board

Sec. 13. The powers herein enumerated shall, except as herein otherwise provided, be exercised by the board of directors above provided for and elected and appointed as described herein.

Duties of Officers of Board

Sec. 14. The president shall sign all contracts on behalf of the district and perform such other duties as may be imposed by the board of directors. The secretary shall countersign all contracts on behalf of the district and perform such other duties as may be imposed by the board of directors. The general manager shall have full charge and control of the maintenance, operation and construction of the water works or water works system of said water district, with full power and authority to employ and discharge all employees and assistants at pleasure, prescribe their duties, and shall, subject to the approval of the board of directors, fix their compensation. The general manager shall perform such other duties as may be imposed upon him by the board of directors. The general manager shall report to the board of directors in accordance with such rules and regulations as they may adopt. The auditor shall be charged with the duty of installing and maintaining a system of auditing and accounting that shall completely and at all times show the financial condition of the district. He shall draw warrants to pay demands made against the district when such demands have been first approved by at least three members of the board of directors and by the general manager. The board of directors shall also designate a depositary or depositaries to have the custody of the funds of the district, all of which depositaries shall give security sufficient to secure the district against possible loss, and who shall pay the warrants drawn by the auditor for demands against the district under such rules as the directors may prescribe. The general manager, secretary and auditor, and all other employees or assistants of said district who may be required so to do by the board of directors, shall give bonds to the district conditioned for the faithful performance of their duties as the board of directors from time to time may provide. (Stats. 1929, p. 1159.)

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[1] The act adopting this section also contained the following:

"Sec. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of article four of the constitution of the State of California, and shall go into immediate effect. The following is a statement of the facts constituting such urgency and necessity: Various county water districts and their inhabitants are now faced with impending water shortages, and the peace, health, safety and welfare of the citizens of this state residing therein are dependent upon the immediate acquisition of an adequate and pure water supply for their public and domestic requirements, which can only be secured from certain existing municipal utility districts. Said municipal utility districts are at present without authority to enter into appropriate arrangements for supplying said citizens and districts with water, but said amendment will enable municipal utility districts to provide for their public and domestic requirements and avert impending water shortages."

BONDS

Election. Notice. Publication. Canvass of Returns

SEC. 15.[1] Whenever the board of directors deem it necessary for the district to incur a bonded indebtedness, it shall by resolution so declare, and state in said resolution the purpose for which the proposed debt is to be incurred and the amount thereof, and shall by said resolution fix a time and place for a hearing by the board on the question as to whether the whole district or only a portion thereof will be benefited by the accomplishment of said purpose, and if only a portion thereof will be so benefited, what portion will be so benefited. Notice of such hearing shall thereupon be given by the secretary of said board of directors by publication of a copy of said resolution in some newspaper printed and published in said district for at least two weeks and, if there be no newspaper printed and published in said district, by posting a copy thereof in three public places within said district at least two weeks before the time fixed for said hearing. Said copy of said resolution so published or posted shall be accompanied by notice subscribed by said secretary, with the seal of the district attached, to the effect that the hearing referred to in said resolution will be had at the time and place specified in said resolution and at said time any person interested, including all persons owning property in said district, will be heard upon the question stated in said resolution. At the time and place fixed in said resolution for said hearing, or at such time and place to which said hearing may be adjourned, said board of directors shall proceed with said hearing and any person interested, including any and all persons owning property within said district, may appear and present any and all such matters material to said question as he may desire. Upon the conclusion of said hearing, said board of directors shall by resolution determine whether the whole of said district will be benefited by the accomplishment of the purpose stated, and if it determines that the whole of said district will not be so benefited by the accomplishment of said purpose, it shall state what portion of the district will be so benefited, describing the same in a manner sufficient for identification and that portion of the county water district so described shall thereupon constitute and be known as Improvement District No. ---------- of ---------- county water district, and the proceedings thereafter for the purpose of the bond election within said improvement district and for the purpose of taxation for the payment of said bonds and interest shall be limited, and apply only to said improvement district of said county water district. The determination of the board of directors on this question shall be final and conclusive. The resolution of the board of directors expressing its determination in the matter having been adopted, said board of directors, if they deem it necessary to incur such bonded indebtedness, shall by a resolution so declare and state the purpose for which the proposed debt is to be incurred, whether or not the whole of the county water district is to be benefited thereby or only a portion thereof, and if only a portion thereof, a description of such portion sufficient for identification and the designation thereof as hereinafter provided for all in accord with the determination of the board as expressed in its previous resolution, the amount of debt to be incurred, the maximum term the bonds to be issued shall run before maturity, which shall not exceed forty years, and the amount or rate of interest to be paid which shall not exceed seven per cent per annum, payable annually or semi-annually and the proposition to be submitted to the electors. The board of directors shall fix a date upon which an election shall be held for the purpose of authorizing said bonded indebtedness to be incurred. It shall be the duty of the board of directors to provide for holding such special election on the day so fixed, in accordance with the general election laws of the state, so far as the same shall be applicable, except as herein otherwise provided. Such board of directors shall give notice of the holding of such election, which notice shall contain the resolution calling the election adopted by the board of directors of the water district, boundaries of voting precincts, which shall include therein only such portions of the district as will be benefited, as stated in such resolution, the location of polling places, and the names of the officers selected to conduct the election, who shall consist of one judge, one inspector and two clerks in each precinct. Such notice shall be published for two weeks in at least one newspaper printed and published in such water district, which newspaper or newspapers shall be designated by the board of directors; and if there is no newspaper printed and published in such water district, then by posting such notice in three public places in the said county water district if the entire water district has been found to be benefited or otherwise in said improvement district so created therein. Every qualified elector residing within such voting precincts, but no others, shall be entitled to vote at such election. All the expenses of holding such election shall be borne by the county water district. The returns of such election shall be made to and the votes canvassed by said board of directors on the first Monday following said election, and the results thereof ascertained and declared in accordance with the general election laws of the state, so far as they may be applicable, except as herein otherwise provided. The secretary of the board of directors, as soon as the result is declared, shall enter into the records of such board a statement of such result. No irregularities or informalities in conducting such election shall invalidate the same, if the election shall have otherwise been fairly conducted. Except as otherwise provided for herein, said election shall be called, managed and directed as is by law provided for general elections in this state applicable thereto. (Stats. 1923, p. 314; 1925, p. 987.)

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[1] See note following section 22.

Montecito Co. Water Dist. vs. *Doulton*, 193 Cal. 398, 401, 224 Pac. 747; *People* vs. *Lake Co. Water Dist.*, 183 Cal. 137, 140; 190 Pac. 630.

Two-thirds Vote Necessary

Sec. 16. If from such returns it appears that more than two-thirds of the votes cast at such election were in favor of and assented to the incurring of such indebtedness, then the board of directors may, by resolution, at such time or times as it deems proper, provide for the form and execution of such bonds and for the issuance of any part thereof, and may sell or dispose of the bonds so issued at such times or in such manner as it may deem to be to the public interest.

Refunding Bonds

Sec. 16a. The board of directors may, by resolution, submit to the electors of the district, a proposition for the issuance of new bonds for the purpose of refunding any or all of the bonds outstanding, voted by such electors and in like manner may submit to the electors of any improvement district of the district a proposition for the issuance of new bonds for the purpose of refunding bonds voted by the electors of such improvement district, which proposition may be voted on at any general or special water district election and the procedure upon such election shall be in accordance, so far as applicable, with the procedure upon an original issue of bonds, except that no hearing need be held upon the question whether the bond issue will benefit the entire district or only a portion thereof and the vote of a majority of the electors voting upon the proposition shall be sufficient to authorize the issue of refunding bonds. Such refunding bonds shall not bear a higher rate of interest than the bonds to be refunded and may be issued and sold in the manner and form prescribed for an original issue of bonds and may, if the holder of bonds of an original issue and the board of directors so agree, be exchanged for such original bonds, provided that the face value of the refunding bonds so exchanged shall not exceed the face value of the original bonds. The board of directors may raise money by water rates or taxes to pay principal and interest of such refunding bonds in the same manner as prescribed for payment of bonds of an original issue. (Added, Stats. 1935, p. 2103.)

Value of Bonds Issued

Sec. 17. Any bonds issued by any district organized under the provisions of this act are hereby given the same force, value and use as bonds issued by any municipality and shall be exempt from all taxation within the State of California.

Power to Construct Works

SEC. 18. The board of directors shall have power to construct works across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch, or flume which the route of said works may intersect or cross; provided, such works are constructed in such manner as to afford security for life and property, and said board of directors shall restore the crossings and intersections to their former state as near as may be, or in manner not to have impaired unnecessarily their usefulness. Every company whose right of way shall be intersected or crossed by said works shall unite with said board of directors in forming said intersections and crossings and grant the rights therefor. The right of way is hereby given, dedicated and set apart to locate, construct and maintain said works over and through any of the lands which are now or may be the property of this State, and to have the same rights and privileges appertaining thereto as have been or may be granted to the municipalities within the State.

WATER RATES AND TAXES

Water Rates

SEC. 19. The board of directors shall fix all water rates, subject to the power of the State Railroad Commission to fix rates for water furnished to municipal corporations and their inhabitants, and shall through the general manager collect the charges for the sale and distribution of water to all customers. (Amended, Stats. 1915, p. 26.)

Rate to Pay Operating Expenses

SEC. 20. The board of directors in the furnishing of water shall fix such rate as will pay the operating expenses of the district, provide for repairs and depreciation of works owned or operated by it, pay the interest on any bonded debt, and, so far as possible, provide a sinking or other fund for the payment of the principal of such debt as it may become due; it being the intention of this section to require the district to pay the interest and principal of its bonded debt from the revenues of the district. Provided, however, that if any district shall have heretofore or hereafter issued any bonds for the purpose of storing water for the benefit of the district or conserving water for future use or appropriating, acquiring or conserving water and water rights for any useful purpose, or to prevent interference with or diminution of the natural flow of any stream or natural subterranean supply of water used or useful for any purposes of the district or for a common benefit to the lands within the district or its inhabitants, then such district shall, so long as bonds remain outstanding and prior to the time that the district shall receive any operating revenues from the sale of such water, levy and cause to be levied in the manner hereinafter provided a tax each year until said bonds are paid, or until there shall be a sum in the treasury of said district set apart for that purpose to meet all sums coming due for principal and interest on such bonds, a tax sufficient to pay the annual interest on such bonds and also such part of the principal thereof as shall become due before the time for fixing the next general county tax levy; provided, further, that if the maturity of the indebtedness created by such issue of bonds be made to begin more than one year after the date of issuance of such bonds, such tax shall be levied and collected at the time and in the manner hereinafter provided, annually each year sufficient to pay the interest on such indebtedness as it falls due and also to constitute a sinking fund for the payment of the principal thereof on or before maturity. (Amended, Stats. 1931, p. 81.)

People vs. Lake Co. Water Dist., 183 Cal. 137, 140, 190 Pac. 630.

Tax Levy to Pay Deficit

SEC. 21. If from any cause, the revenues of the water district shall be, or in the judgment of the board of directors are likely to be, inadequate to pay the interest on or principal of any bonded debt as it becomes due, or any other expenses or claims against the district, then the board of directors must, at least fifteen (15) days before the first day of the month in which the board of supervisors of the county or city and county in which such district is located is required by law to levy the amount of taxes required for county or city and county purposes, furnish to the board of supervisors and to the auditor, respectively, an estimate in writing of the minimum amount of money required by the district for the payment of the principal of or interest on any bonded debt as it becomes due, or which, in the judgment of the board of directors, will be required by such district for the payment of such principal or interest as aforesaid, together with a description of the portion of the district benefited thereby, as stated by the board of directors in the resolution declaring the necessity to incur such bonded indebtedness, and also of the minimum amount of money required by the district for any other purpose in this section set forth, and the board of supervisors of such county or city and county must annually, at the time and in the manner of levying other county or city and county taxes and until any such bonded debt is fully paid, levy upon the property within the portion of the district so benefited and cause to be collected, a tax sufficient for the payment of the principal of and interest on such bonded indebtedness to be known as the "---------- county water district bond tax"; and until all other expenses or claims are fully paid, levy upon all of the property within the district and cause to be collected a tax sufficient for the payment thereof to be known as the "------ county water district water tax." Where with relation to any such bonded indebtedness, the determination of the board of directors as expressed in its resolution shall have been to the effect that the whole of the said district was benefited by the purpose thereof, it will be sufficient for the purpose of this section to simply state that the whole of the district was so benefited. (Amended, Stats. 1931. p. 81.)

Montecito Co. Water Dist. vs. *Doulton*, 193 Cal. 398, 224 Pac. 747;
People vs. *Lake Co. Water Dist.*, 183 Cal. 137, 140, 190 Pac. 630.

Levy and Collection of Tax

SEC. 22. Such taxes for the payment of the interest on or principal of any such bonded debt shall be levied on the property within the portion or portions of the district benefited thereby as stated by the board of directors in accordance with their determination in the resolution declaring such determination, as well as in their resolution declaring the necessity for such indebtedness, and all taxes for other purposes shall be levied on all property in the territory comprising the district.

All such taxes shall be collected at the same time and in the same manner and form as county taxes are collected, and when collected shall be paid to the district for which such taxes were levied and collected. Such taxes, if for the payment of a bonded debt or the interest thereon, shall be a lien on all the property benefited thereby, as so stated in the resolution of the board of directors aforesaid, and all taxes for other purposes shall be a lien on all the property in the territory comprising the district; and said taxes whether for the payment of a bonded indebtedness or the interest thereon or for other purposes, shall be of the same force and effect as other liens for taxes, and their collection shall be enforced by the same means as provided for in the enforcement of liens for state and county taxes. (Stats. 1915, p. 29; 1923, p. 315; 1925, p. 987.)

People vs. *Lake Co. Water Dist.*, 183 Cal. 137, 140, 190 Pac. 630.

NOTE.—Chapter 457 of the Statutes of 1925 (p. 987), which amended sections 15, 21 and 22 of this act, contained the following section, which must be interpreted as a limitation on these three sections:

"SEC. 4. This act shall have no effect with regard to any bonded indebtedness of the district heretofore authorized by vote of the electors of the district in accord with the law in force at the time of such authorization, whether all of said bonds so authorized have been heretofore issued and sold or not, but all such bonds so authorized may be issued and sold in conformity with the law in force at the time of such authorization, and all provisions of such laws applicable to such bonds at the time of such authorization shall, with regard to said bonds, continue in full force and effect."

Special Assessments

SEC. 22a. Any county water district shall have the power to levy special assessments when authorized by election, or in case of unexpected emergency without such election, in the manner prescribed as to irrigation districts in sections 59 and 60 of the California Irrigation District Act, as now existing or as hereafter amended; such assessment shall be levied on such portion or all of the district as may be designated by resolution of the board as benefited by such assessment. (Added, Stats. 1933, p. 2252.)

Petitions for Special Rates of Assessment

SEC. 22b. Whenever the board of directors of any county water district shall by ordinance have found and determined that, in view of the circumstances existing in the district, it is just and reasonable that such petitions as are referred to in this section should be heard and determined, then anyone having an interest in any land within the district may file with the secretary of the board of directors a verified petition, alleging that said land, or some described portion thereof, was prior to the acquisition or establishment by the district of any water system or waterworks serving the territory in which said land is situate, irrigated from another system of works than said system of works of the district and has continued ever since to be exclusively so irrigated, and is entitled to a special rate of taxation, and praying the board to determine what percentage of the regular rates of taxation of the district should be used in levying taxes on the land described in the petition. The board shall set a time and place for the hearing of said petition, or of all of the petitions so filed if more than one has been filed, and shall cause notice thereof to be given in a newspaper published in the county wherein the office of the district is located. The notice shall state that a petition has been, or petitions have been presented to the board praying for a determination that certain lands described therein, but which need not be described in the notice, are entitled to a special rate or rates of taxation and giving the names of the petitioner, or petitioners, and the time and place set for the hearing. The board shall meet at the time and place so set and proceed in such order as it may deem proper, to hear the petition or petitions and shall hear all competent and relevant evidence offered in support of any petition or in opposition thereto, and may adjourn the hearing from time to time. A fee of ten dollars must be paid to the secretary before the filing of any such petition, and the money shall be applied to the cost of the publication of the notice and other expenses of the hearing. If there shall be any balance after the conclusion of the hearing, it shall be returned to the petitioner or divided among the petitioners contributing thereto in proportion to the respective areas described in their petitions. After the conclusion of the hearing, if the board shall find that any of the land described in any petition or petitions has been irrigated as alleged and is not and will not be so benefited by the operations of the district as to justify its taxation at the same rate as other lands in the district not so irrigated, which rate may be referred to as the regular rate of taxation, the board shall, in an ordinance or resolution which shall be entered in full upon its minutes, describe the land entitled to a special rate of taxation, or the respective parcels thereof if separate parcels are to be assessed, and shall determine and fix the percentage of the regular rate of taxation which shall be applied in levying district taxes on said land, or on each parcel thereof if various parcels are found to be entitled to different special rates, in order that the taxes to be levied on said land may be in accordance with the benefits which it receives or will receive from the operations of the district. If the board shall determine that any land is entitled to a special rate of taxation, a certified copy of the ordinance or resolution so determining shall be delivered to the assessor, and thereafter, until notified of a change in such determination, he shall enter the land described therein separately on the assessment roll and so designate it and the percentage of the regular rate of taxation to which it is entitled that it may readily be distinguished from other land not entitled to a special rate. Thereafter the officer charged with the duty of entering on the assessment roll the amount of district taxes on the lands in the district shall in making such entry observe and conform to such ordinance or resolution of the board. The determination of the board with respect to any land after a hearing as aforesaid shall not be changed unless the board, on petition of a party affected, shall consent to another hearing, or on its own motion shall cause notice to be served on the owner of the land to show cause why the determination should not be changed, in either of which cases another hearing shall be advertised and held as hereinabove provided. (Added, Stats. 1933, p. 2252.)

IMPROVEMENTS UNDER 1911 ACT

SEC. 22c. Whenever, in the opinion of the board of directors of any county water district, the public interest or convenience may require, said board is hereby authorized and empowered to order to be done in, under or upon the whole or any portion of any one or more of the streets, highways, public ways or public places of such district, or any property or rights of way owned by such district, any work or improvement for (a) wells, pumps, dams, reservoirs, storage tanks, channels, ditches, tunnels, conduits, pipes, hydrants, meters, and other appliances, for supplying or distributing an irrigation, domestic or other water supply, or (b) for pipes, hydrants and appliances for fire protection, and to provide that the cost thereof shall be assessed upon the lots and lands fronting on any such streets, highways, public ways or public places, or upon any district to be assessed therefor, which district need not be composed of lands contiguous to each other. Said work or improvement shall be done and the cost thereof be assessed and collected in accordance with the procedure and in pursuance of the provisions of that certain act of the Legislature of California known as the "Improvement Act of 1911," as heretofore or hereafter amended, and the provisions of said act are hereby adopted by reference for the purpose of this act; provided, that certain words used in said "Improvement Act of 1911" shall, for the purposes of this act, be construed as follows: the words "city" and "municipality" shall be construed as referring to "county water district"; and words "city council" as referring to the "board of directors" of the county water district; the word "mayor" as referring to the "president" of the board of directors of the county water district; the word "clerk" or "city clerk" as referring to the "secretary" of the county water district; the words "council chambers" as referring to the "office of the board of directors" of the county water district; the words "city treasurer" as referring to the "auditor" of the county water district; the words "superintendent of streets" or "street superintendent" and "city engineer" as referring to the "engineer" of the county water district; the term "right of way" shall mean any parcel of land through which a right of way has been granted to the county water district for any purpose; and all words relating to municipal officers and matters, as referring to the corresponding officers of county water districts and matters under this act; provided, that the board of directors of county water districts may appoint officers other than the engineer, without compensation, as the officer to perform any or all of the duties conferring upon the street superintendent or city engineer in said "Improvement Act of 1911"; provided, further, that said board may appoint an engineer of work, in which event the duties to be performed by the city engineer as set forth in said "Improvement Act of 1911" shall be performed by said engineer of work, whose compensation and expenses shall constitute an incidental expense in the cost of said work. Said board may provide that the work shall be done under his direction and to his satisfaction, and that the materials used shall comply with the specifications of and be to the satisfaction of such engineer of work, and may provide that he shall make and sign the assessment. The contract shall be entered into by the engineer, and the assessment and warrant, when confirmed, shall be recorded in the office of said engineer. (Added, Stats. 1933, p. 2252.)

GENERAL PROVISIONS

Initiative

SEC. 23. Ordinances may be passed by the electors of any county water district organized under the provisions of this act in accordance with the methods provided by the general laws of the State for direct legislation applicable to counties.

Referendum

SEC. 24. Ordinances may be disapproved and thereby vetoed by the electors of any such county water district by proceeding in accordance with the methods provided by the general laws of the State for protesting against legislation by counties.

Additions to District

SEC. 25. Any portion of a county or of any municipality, or both, consisting of lands susceptible of service with water from works of the district, or practicable works in connection therewith, which lands will be benefited by such service and may consist of several parcels which are or are not contiguous with each other nor with the boundary of the district, may be added to any district organized under this act, at any time, in the following manner:

(a) A petition may be filed with the secretary of the board of directors, signed by a majority in number of the holders of title, or evidence of title, to the lands proposed to be added, who shall hold title or evidence of title, to a majority in acreage of said lands, containing a description of said lands sufficient to identify the same and praying that said lands be added to the district. Such petition may consist of one or more separate instruments and each signature thereto shall be acknowledged or proved in the manner required to entitle an instrument to be recorded.

(b) The secretary of the board of directors shall, commencing not later than forty days after the filing of the petition, cause to be published in a newspaper printed and published in the district, or a newspaper printed and published in the county, if there be no newspaper printed and published in the district, once a week for two successive weeks a notice stating the purpose of the petition and describing the lands proposed to be added and notifying all persons interested in or who may be affected by the proposed addition of said lands to the district to appear at the office of the board at a time named in such notice for the hearing of said petition and objections thereto and show cause in writing, if any they have, why said lands, or any part thereof, should not be added to the district. The time of hearing to be specified in said notice shall be that of the regular meeting of said board next after the expiration of the time for publication of said notice.

The secretary shall, within two days after first publication of said notice, send a copy thereof by mail to each person who has not signed the petition, to whom any lands proposed to be added to the district were assessed on the last equalized county assessment roll, at the address of such person appearing on said assessment roll. Irregularity or defect in mailing, or failure to mail such copies shall not in any manner impair nor invalidate the addition of such lands to the district. The petitioners shall advance to the secretary the cost of publication and mailing of such notice, and unless so advanced at the time of filing the petition, or provided by the board the secretary shall not publish nor mail the notice.

(c) At the time of hearing specified in said notice, or other time to which the hearing shall be adjourned, the board of directors shall proceed to hear the petition and all written objections thereto and if said board shall find that said petition complies with the requirements of this act and that the addition to the district of the lands proposed to be added, or some portion thereof, is authorized by this act and will be for the best interest of the district, and of the lands to be added the board shall by ordinance declare that said lands, or said portion thereof, shall be added to the district. Said board shall not determine that only a portion of said lands shall be so added, unless the petitioners include a majority in number of the holders of title, or evidence of title to said portion of said lands and represent a majority in acreage thereof. The ordinance shall contain a description of the lands added to the district, sufficient to identify the same.

(d) The board of directors may, without petition, except as may be required by the laws of the United States, by resolution propose the addition to the district of any public lands of the United States which might, if privately owned, be added on petition. The secretary of said board shall thereupon cause publication of notice stating such proposal and otherwise complying with subdivision (b) of this section and said board shall hold a hearing pursuant to said notice and if said board shall find that all requirements of this act and of the laws of the United States have been complied with and that the addition of said lands, or some portion thereof is authorized by this act and will be for the best interest of the district and of the lands to be added, the board shall by ordinance describe said lands, or portion thereof and declare that said lands, or said portion thereof, shall be added to the district.

(e) If no petition for the holding of an election for the disapproval and veto by the electors of any ordinance adding lands to the district be filed within the period provided by law, after the adoption of such ordinance, then said ordinance shall be effective.

(f) The president and secretary of the board of directors shall, if no petition for disapproval and veto of such ordinance is filed within the time provided by law, or if such petition is filed and upon the election the electors shall not disapprove and veto said ordinance, forthwith file with the Secretary of State and with the county recorder of the county in which said district is located certified copies of said ordinance and certificates stating said facts and the Secretary of State shall, within ten days after receipt of such papers, issue his certificate, reciting the addition to the district of the lands so added and describing the same and shall transmit to and file with the county clerk of the county in which said district is located a certified copy of said certificate. From and after the date of said certificate the lands therein described shall be deemed added to the district and form a part thereof, and shall be subject to existing bond issues and indebtedness of the district. (Amended, Stats. 1935, p. 2103.)

San Gabriel Co. Water Dist. vs. *Richardson,* 68 Cal. App. 297, 228 Pac. 1055.

Addition of Land in Adjoining County

Sec. 25a. Any lands, situate in any county which lies contiguous to the county in which any county water district was organized, may be added to such district, under the requirements and in the manner set forth in section 25 of this act. In addition to said requirements the notice of hearing upon the petition or proposal for addition of said lands shall be published in at least one newspaper printed and published in the county in which said lands are situate; the president and secretary shall file with the county recorder of said county duplicates of the papers required to be filed with the Secretary of State and the latter shall file with the county clerk of said county a certified copy of his certificate reciting the addition of said lands.

After said lands have been added to the district:

(a) The secretary of the board of directors of the district shall perform all duties prescribed by law to be performed by county clerks in connection with district elections and for such purposes is authorized to procure from the proper county clerks all requisite registration books and copies of indexes thereof; all papers required by this act to be filed with county clerks shall be filed with said secretary and the board of directors shall perform all duties prescribed by law to be performed by boards of supervisors in connection with district elections; and

(b) The district shall assess property and levy and collect taxes in the manner prescribed in sections 30 to 51, inclusive, of this act. (Added, Stats. 1935, p. 2103.)

Conditions on Additions to District

SEC. 25b. If the board of directors shall, on any hearing on a petition to add lands to the district find that such addition of any lands without condition would work an injury to lands already within the district, the board may by resolution prescribe conditions upon such addition, either by providing for priority of right to water for the lands theretofore in the district, or for the payment of special taxes upon the lands to be added, or special rates for water served such lands, or for such other conditions as may to the board seem just. As part of such conditions said board may in its discretion prescribe that the lands so added shall be added to and form a part of any improvement district then existing within the county water district or shall constitute one or more additional improvement district or districts.

If any such conditions be prescribed by the board, the board shall adjourn the hearing upon the addition of said lands for not less than thirty nor more than sixty days. If upon the adjourned hearing it shall appear that written objections to the addition of said lands subject to such conditions have been filed with the secretary of the board, signed and acknowledged by the majority in number of holders of title, or evidence of title, to said lands, representing a majority in acreage of said lands, then said board shall by resolution dismiss said petition. If such objections have not been so filed, the board may proceed by ordinance to declare that said lands shall be added to the district subject to said conditions.

Without any other proceedings than those necessary to comply with the laws of the United States and regulations issued thereunder, the board of directors may by any ordinance providing for addition to the district of any public lands of the United States impose upon such lands any such conditions as the board may deem just. (Added, Stats. 1935, p. 2103.)

Other Acts Not Repealed; Definitions; Proceedings Validated

SEC. 26. Nothing in this act shall be so construed as repealing or in anywise modifying the provisions of any other act relating to water or the supply of water to, or the acquisition thereof by counties or municipalities within this State, and notwithstanding any of the provisions of this act or of any other act the holder or holders of title or evidence of title of any tract or tracts of land which may be within the boundaries of any county water district formed under the provisions of this act may petition for the inclusion of such land, and such land may be included within an irrigation district formed under the California Irrigation District Act, under the same conditions and in the same manner as if such land was not within the boundaries of such county water district, but such inclusion shall not be made unless it shall appear and the board of directors of the irrigation district within which such lands are about to be included shall find that the county water district within which such lands are situated shall have been in existence for not less than five years immediately preceding the date of the filing of the petition for inclusion with the secretary of the board of directors of the irrigation district and that at the date of the filing of such petition such county water district shall not be delivering and is not prepared to deliver water from the irrigation works owned by such county water district to such lands for irrigation purposes. No lands, however, within such county water district so included within the boundaries of an irrigation district shall be released from any of the burdens, obligations or liabilities of such county water district because of such inclusion within an irrigation district but shall, so far as such inclusion is concerned, continue to be in all respects a part of such county water district. The word ''district'' shall apply, unless otherwise expressed or used, to a water district formed under the provisions of this act, and the word ''board'' and the words ''board of directors'' shall apply to the board of directors of such district. Any county water district heretofore organized under the provisions of the act of which this act is amendatory shall enjoy all the powers herein granted and the organization of such districts and all proceedings leading to such organization are hereby affirmed and validated and such districts are hereby declared to be duly organized and incorporated. (Amended, Stats. 1931, p. 2511; Stats. 1933, p. 2252.)

Duties Performed by Registrar of Voters

Sec. 27. Whenever a registrar of voters in any county, or city and county, shall be appointed, or elected, under the provisions of law, or charter providing therefor, the duties imposed on the county clerk by the provisions of this act shall be performed by the registrar of voters with like effect, and in such case all papers or documents required to be filed with the county clerk shall be filed with said registrar of voters when so appointed or elected.

Exclusion of Territory

Sec. 28. Any territory, included within any county water district formed under the provisions of this act, and not benefited in any manner by such district, or its continued inclusion therein, may be excluded therefrom by order of the board of directors of such district upon the verified petition of the owner or owners in fee of lands whose assessed value, with improvements, is in excess of one-half of the assessed value of all the lands, with improvements, held in private ownership in such territory. Said petition shall describe the territory sought to be excluded and shall set forth that such territory is not benefited in any manner by said county water district or its continued inclusion therein, and shall pray that such territory may be excluded and taken from said district. Such petition shall be filed with the secretary of the water district and shall be accompanied by a deposit with such secretary of the sum of one hundred dollars, to meet the expenses of advertising and other costs incident to the proceedings for the exclusion of such territory, including the cost of recording a certified copy of the order hereinafter provided for, any unconsumed balance to be returned to the petitioner. Upon the filing of such petition with the secretary of the water district he shall call a meeting of the board of directors of the district at a time not less than twenty-five days nor more than fifty days after the filing of the petition and cause a notice of the filing of such petition to be published for at least two weeks in some newspaper of general circulation within said district, if there be one, and if not, in some newspaper of general circulation published in the county in which the district is situated. Such notice shall also state the date of the filing of such petition and that the same will come on for hearing before the board of directors of the district and shall state the time of the hearing and the place thereof, which shall be the regular meeting place of the board of directors of the district; provided, that the board may adjourn the hearing to a more convenient meeting place within the district. Any landowner or taxpayer within the district shall have the right to appear at said hearing, either in behalf of or in opposition to the granting of said petition. Said petition shall come on for hearing before the board of directors of the district at the time and place specified in the notice of hearing. If upon such hearing the board of directors determines that it is for the best interests of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, or if it appears that such lands, or some portion thereof, will not be benefited by their continued inclusion in the district, then the board of directors shall make an order that such lands, or such portion thereof, be excluded from the district, such order to describe specifically the lands so excluded. From the time of the making of such order the lands so excluded shall be deemed to be no longer included in the district, but such order of exclusion shall not be taken to invalidate in any manner any taxes or assessments theretofore levied or assessed against the lands so excluded. A copy of such order of exclusion, certified to by the secretary of the district, shall be recorded in the office of the county recorder of the county in which the district is situated and the record of such certified copy shall be deemed prima facie evidence of the exclusion from the district of the lands purporting to be excluded thereby.

The board of directors of any county water district formed under the provisions of this act may itself initiate the proceedings for the exclusion from the district of any land or lands which it may not be for the best interests of the district to be included, or which may not be benefited in any manner by their continued inclusion therein. Such proceedings shall be initiated by the board of directors by the passage of a resolution requiring all persons interested to appear and show cause before the board of directors, at a time and place specified, why such lands, describing them, should not be excluded from the district and fixing a time and place for such hearing and directing the secretary of the district to give noitce of the passage of such resolution and of such hearing. Upon the passage of such resolution the secretary of the district shall give notice thereof and of the time and place of such hearing in the manner hereinbefore prescribed for notice of hearing upon such petition by a landowner or landowners, and thereafter all proceedings shall be had in the manner and with the effect herein provided for proceedings upon a petition by a landowner or landowners. The time of hearing fixed by the board of directors by its resolution hereinbefore mentioned shall be not less than twenty-five days nor more than fifty days after the passage of such resolution and the place of hearing so fixed shall be a convenient place within the district; provided, that the final action of the board of directors under this section shall be subject to the referendum by the electors of the water district according to section 24 of this act. (Added, Stats. 1917, p. 225.)

ALTERNATIVE MODE OF ASSESSMENT, LEVY AND COLLECTION OF TAXES

Option to Employ Alternative Mode

Sec. 29. Anything in this act to the contrary notwithstanding, the board of directors of any county water district shall at its option have the power by ordinance to declare that the provisions of sections 21 and 22, as amended, of this act shall not thereafter be operative with respect to such district, and that such district shall proceed to assess property and levy and collect taxes in accordance with the provisions of sections 30 to 51 of this act. Thereafter and until the board shall by ordinance declare said provisions of sections 30 to 51, inclusive, inoperative and that the taxes of the district shall be assessed, levied and collected under the provisions of sections 21 and 22 of this act, as amended, said sections 30 to 51, inclusive, shall be effective and control the mode and manner of assessment, levy and collection of taxes of such district. (Added, Stats. 1933, p. 2252.)

Assessor and Collector; Appointment; Duties

Sec. 30. The board of directors may elect an assessor and a collector, who shall hold office at the pleasure of the board and receive such compensation as shall be fixed by the board. Each of said officers shall qualify by taking and filing with the secretary of said board the oath of office, and shall give such bond to such district as shall be required by the board; provided the bond of said collector shall be in not less than the sum of $50,000 and shall be executed at the expense of the district by a surety company authorized to do business in this State. Each of said officers shall perform such duties as shall be required by this act and such other duties as shall be prescribed by the board of directors. The board may, in its discretion, appoint the same person to hold the offices of assessor and collector or segregate said offices and appoint a person to fill each office. The same person may hold the office of general manager, secretary, assessor and collector or any of said offices. (Added, Stats. 1933, p. 2252.)

Assessments; Procedure

Sec. 31. The assessor must, between the first Monday in March and the second Monday in July of each year assess all lands, including all possessory rights to the use or possession of land held under the public land laws of the United States or of the State of California, or otherwise, and all improvements and personal property within the boundaries of the district, to the persons who own, claim or have possession or control thereof, at the full cash value thereof, as follows:

He must prepare an assessment roll with appropriate headings, in which must be listed all such property, in which must be specified in separate colums under the appropriate heading:

1. The name of the person to whom the property is assessed, or if the name is not known to the assessor, the property shall be assessed to "unknown owners";
2. Land by township, range, section or fractional section, and when such land is not in any congressional division or subdivision, by metes and bounds or other description sufficient to identify it, giving an estimate of the number of acres and locality;
3. City and town lots, naming the city or town, and the number and block according to the system of numbering in such city or town;
4. The cash value of land other than city or town lots;
5. The cash value of city and town lots;
6. The cash value of improvements;
7. The cash vale of personal property;
8. The total value of all property assessed;
9. The total value of all property after equalization by the board of directors;
10. Such other things as the board of directors may require.

Any property which may have escaped assessment for any year shall, in addition to the assessment for the then current year, be assessed for such year with the same effect and with the same penalties as are provided for in such current year. (Added, Stats. 1933, p. 2252; amended, Stats. 1937, p. 1423.)

Maps; Assessment by Reference To

SEC. 31.1. Whenever a tract of land within the district has been segregated into parcels owned by several owners the board of directors may cause an official map of said tract to be made, giving specific portions of such tract separate numbers, letters or designations and indicating streets, roads and other public places by appropriate names. When any such official map has been adopted by resolution of the board of directors, it shall thereafter be lawful for the assessor to describe by number, letter or designation as delineated on such map any parcel of land shown thereon, in assessing such parcel for district purposes. Such official map may consist of a copy of another map or compilation from other maps or a resurvey or renumbering or relettering of parcels of land in such tract. Any surveys and the field notes thereof made in connection with such official map shall become part of the records of the assessor. The map when adopted by the board of directors shall be filed in the office of the assessor.

The assessor may also describe property for assessment purposes by reference to a map other than an official map, as herein provided for, whenever such map has been furnished by the owner or claimant or user of property to be assessed, provided that such map contains sufficient information for clear identification of the property to be assessed and is filed with the assessor. (Added, Stats. 1937, p. 1423.)

Directors as Board of Equalization

SEC. 32. On or before the first Monday in August each year the assessor must complete his assessment roll and show therein in detail all data required in section 31 of this act and any and all other data necessary to enable said board of directors to fix the tax rate and levy taxes upon the taxable property within said district. Said assessor must thereupon deliver said assessment roll to the secretary of the board, who must immediately give notice thereof and of the time the board of directors, acting as a board of equalization, will meet to equalize assessments, by one publication in a newspaper published in said district, or if there be none, then in the county in which said district is situated. The time fixed for the meeting shall be not less than ten nor more than twenty days from the first publication of the notice and in the meantime the assessment roll must remain in the office of the secretary, for the inspection of all persons interested. (Added, Stats. 1933, p. 2252.)

Board of Equalization; Procedure

SEC. 33. Upon the date specified in the notice required by the preceding section for the meeting of the board of directors, which is hereby constituted a board of equalization for that purpose, said board of directors shall meet and continue in session from time to time as long as may be necessary, not to exceed ten days, exclusive of Sundays, to hear and determine such objections to the valuation and assessment as may come before it; and the board may change the valuation as may be just, whether objection be filed or not.

The secretary of the board shall be present during its sessions and note all changes made in the valuation of the property and in the names of persons whose property is assessed, and within ten days after the close of the session he shall have the total valuations as finally equalized by the board extended into columns and added. (Added, Stats. 1933, p. 2252.)

Levy of Tax

SEC. 34. If, from any cause, the revenues of the district shall be, or, in the judgment of the board of directors, are likely to be inadequate to pay the interest on or principal of any bonded debt as it becomes due, or any other expenses or claims against the district, then the board of directors must, within fifteen days after the close of its session as a board of equalization, levy a tax sufficient for the payment of principal of and interest upon such bonded indebtedness, to be known as the "bond tax" of the district; a tax sufficient for the payment of all charges and expenditures in connection with construction, acquisition, operation and maintenance of any water system of the district, to be known as the "water tax" of the district, and a tax sufficient for the payment of all other claims and expenses, to be known as the "general tax" of the district. Said bond tax shall be levied upon such portion or all of the district benefited by said bonded debt, as stated by the board in its resolution declaring the necessity of incurring such bonded debt; said water tax shall be levied on such portion or all of the district as is benefited by any such water system and as may be designated by resolution of the board, and said general tax shall be levied on all the property within the district.

In ascertaining the rates of taxation to be levied, fifteen per centum shall be deducted for anticipated delinquencies from the aggregate value of property to be levied on in respect of each separate rate, as shown by the assessment roll of the district, and then the sum necessary to be raised shall be divided by the remainder of the proper aggregate assessed value. The secretary must forthwith compute and enter in a separate column of the assessment roll the respective sums in dollars and cents to be paid on the respective properties therein enumerated. (Added, Stats. 1933, p. 2252.)

Tax Lien

SEC. 35. All district taxes levied on real property and improvements shall be a lien upon the same, which lien attaches as of noon on the first Monday of March in each year, and all taxes levied upon personal property shall be a lien upon the real property of the owner thereof, which lien attaches as of noon, the first Monday in March in each year. (Added, Stats. 1933, p. 2252.)

Extension of Time of Delinquencies

SEC. 36. If, as a result of the neglect or refusal of any officer or officers to perform any duty relating to the assessment, levying and collection of taxes, as in this act provided, it shall be impossible for such duty to be performed within the time required, and such duty shall subsequently be performed, then the time within which all duties consequent upon the performance of such duty shall be performed shall be extended so as to allow the elapsing of the intervals required by this act to elapse after the performance of such duty, and the taxes herein provided for shall not become delinquent for at least thirty days after the first publication of the notice that such taxes are due and payable, as provided in section 39 of this act. (Added, Stats. 1933, p. 2252.)

Powers of Assessor

SEC. 37. All the powers and duties respectively of county assessors respecting the collection of taxes on personal property and upon possession of or claim or right to possession of land, as now provided in sections 3820, 3821, 3822, 3823, 3824 and 3825 of the Political Code shall apply so far as applicable to and shall be exercised by the assessor of the district, and the assessor, on the first Monday in each month, must make a settlement with the secretary of the district and pay to the district all moneys collected by him for such taxes during the preceding month. (Added, Stats. 1933, p. 2252.)

Segregation of Assessments

SEC. 37.1. At any time after taxes are due and prior to the date when the last installment of taxes becomes delinquent, any person, firm or corporation claiming an interest in any lot, piece or parcel or fractional part of land, which lot, piece, parcel or fractional part does not have a separate valuation on the assessment roll, may have such lot, piece, parcel or fractional part segregated and separately valued on said roll in the manner hereinafter set out.

Each applicant for segregation shall file with the officer then having custody of the assessment roll an application for segregation. Such officer shall forthwith submit a description of said lot, piece, parcel or fractional part of land, together with the proposed segregation, to the assessor who must place a separate valuation on each of the proposed segregations. The aggregate amount of assessed valuation of the parcels so segregated shall remain the same as before such segregation. The assessor must transmit such valuations to the officer then having custody of the assessment roll who shall cause a description of the property, together with separate valuations, to be entered on the assessment roll and compute and extend the tax and penalties, if any, and cancel the original description, valuation and tax and penalties, if any. Thereafter taxes, including proportionate accrued penalties, if any, on each segregated lot, piece, parcel or fractional part may be paid separately from the whole assessment. The officer to whom application for segregation is made shall collect a fee of fifty cents for each lot, piece, parcel or fractional part separately valued and pay such fees over to the district. (Added, Stats. 1937, p. 1423.)

Refund of Erroneous Assessments and Taxes

SEC. 38. In case the board of directors of the district shall find that any property has been assessed in any year more than once, or has been assessed by reason of a clerical error for more than its full cash value, or the assessment computed on an excessive acreage, or that any property assessed was not in the district when so assessed, the board may authorize the collector to cancel or modify any such assessment as may be proper, and, in case of any such change in any assessment, the secretary shall credit the collector with the amount of said assessment, if it is canceled, or the amount by which it is reduced, if it is modified.

Any taxes, penalties or costs thereon, or portions thereof, provided for by this act, heretofore or hereafter paid more than once, or heretofore or hereafter erroneously or illegally collected, may, by order of the board of directors, be refunded by the district.

No order for the refund of taxes, penalties or costs under this section shall be made except on a verified claim therefor, verified by the person who has paid said taxes, penalties or costs, or by his guardian, or, in case of his death, by his executor or administrator, which said claim must be filed within one year after the making of the payment sought to be refunded. (Added, Stats. 1933, p. 2252.)

Notice of Tax; Penalties

SEC. 39. On or before the first Monday in October of each year the secretary must deliver the assessment roll to the collector of the district, who shall within ten days thereafter publish a notice in a newspaper published in said district, or if there be none, in the county in which the district is situate, that said taxes will be due and payable on the third Monday in October next thereafter, and that the first installment thereof, including all personal property taxes, and one-half of the taxes on lands and improvements, will become delinquent at six o'clock p m. on the second day of January next thereafter, and that unless paid prior thereto, five per cent will be added to the amount thereof, and that the second installment of said taxes, being the second one-half of taxes on lands and improvements, will become delinquent at six o'clock p.m. on the first day of July next thereafter, and that unless paid prior thereto, five per cent will be added to the amount thereof, and also the time and place at which the payment of said taxes may be made. Said notice shall be published once a week for two weeks. The collector must attend at the time and place specified in the notice to receive taxes, which must be paid in gold and silver coin. He must mark the date of payment of said taxes on the assessment roll opposite the name of the person paying and give a receipt to such person, specifying the amount of the tax and the amount paid, with the description of the property assessed. After said first installment of taxes has become delinquent, the collector must collect thereon, for the use of the district, an addition of five per cent thereof, and, after the second installment of said taxes has become delinquent, the collector must collect thereon, for the use of the district, an addition of five per cent. (Added, Stats. 1933, p. 2252.)

Publication of Delinquent List

Sec. 40. On or before the eighth day of August the collector must publish the delinquent list, which must contain the names of the persons and a description of the property delinquent and the amount of taxes and costs due opposite each name and description. He must append to and publish with the delinquent list a notice that unless the taxes delinquent, together with costs and percentages are paid, the real property upon which such taxes are a lien will be sold to the district. The publication must be made once a week for three successive weeks in a newspaper published in the district, or if there be none, one published in the county in which the district is situate. The publication must designate the time and place of sale. The time of sale must not be less than twenty-one nor more than twenty-eight days from the first publication of the notice, and the place must be at some point designated by the collector within the district; provided, however, that if there should occur any error in the publication of the notice of sale of the delinquent property which might invalidate a sale made thereunder, and such error is discovered prior to sale thereunder, the collector shall at once republish the notice of sale of the property affected by such error, making such republication conform to the provisions of this act, and the time of sale designated in such republication must not be less than twenty-one nor more than twenty-eight days from the first republication, and the place of sale must be at some point designated by the collector within the district as stated in such republication. (Added, Stats. 1933, p. 2252.)

Penalties; Postponement of Sale

Sec. 41. The collector must collect, in addition to the taxes shown due on the delinquent list, with the percentages hereinbefore specified added, fifty cents on each lot, piece or tract of land separately assessed. The collector may postpone the time of sale, but he must give notice thereof at the time and place fixed for the sale in the publication. He may so postpone the time of sale from day to day, but not for a period of more than three weeks; provided, that if the sale be stayed by legal proceedings, the time of the continuance of such proceedings shall not be part of the time limited for making such sale. (Added, Stats. 1933, p. 2252.)

Tax Sale; Redemption

SEC. 42. On the day and hour fixed for the sale in accordance with section 39 hereof, all property upon which the taxes, penalties and costs have not been fully paid shall, by operation of law and the declaration of the tax collector, be sold to the district, and the tax collector shall make in appropriate columns on the assessment roll opposite each parcel of land so sold an entry, "Sold to the District," the date of sale and the total amount for which such parcel of land was sold, and he shall be credited with the amount thereof in his settlement with the secretary of the board of directors; provided, that at any time on the day of the sale the owner or person in possession of any property offered for sale for taxes due thereon may pay the taxes, penalties and costs accrued against any such property.

Property so sold to the district shall be assessed each subsequent year for district taxes until the deed is made to the district therefor, in the same manner as if it had not been sold to the district, and if such taxes become delinquent, such property shall be included in the delinquent list for each such year, and if such subsequent taxes remain unpaid on the day and hour of the sale in this section referred to, sale shall again be made to the district, in the manner herein specified. (Added, Stats. 1933, p. 2252.)

Certificate of Sale

SEC. 43. The collector must make out in duplicate a certificate dated on the date of the sale, stating, when known, the name of the person taxed, a description of the land sold, that it was sold to the district for taxes, giving the year of the tax and the amount of the tax, penalties and costs, and specifying the time when the district will be entitled to a deed. The certificate must be signed by the collector and one copy delivered to the district and the other filed in the office of the county recorder of the county in which the land is situated. (Added, Stats. 1933, p. 2252.)

Record of Sales

SEC. 44. The collector, before delivering any certificate, must in a book enter a description of the land sold, corresponding with the description in the certificate, the date of the sale, regularly number the description on the margin of the book, and put a corresponding number on each certificate. Such book must be open to public inspection, without fee, during business hours, when not in actual use. On filing the certificate with such county recorder, the lien of the taxes vests with the district and is only divested by the payment to it of the aggregate of the taxes, penalties and costs, together with one per cent per month thereon from the date of the sale until redemption; provided, that partial redemption may be made in the manner specified in sections 45 and 46 of this act. (Added, Stats. 1933, p. 2252.)

Redemption After Sale

SEC. 45. A redemption of property sold may be made by the owner, or any party in interest, within three years from the date of the sale. Redemption must be made in lawful money of the United States.

On receiving the certificate of sale, the county recorder must file it in book form and prepare an index thereto, in which, in separate columns, he must enter the name of the person to whom the land was assessed, as written in the certificate, the name of the district and the date of sale.

On receipt of the redemption money plus the sum of fifty cents which the collector shall collect from the redemptioner, the collector shall issue a certificate of redemption in duplicate and deliver one copy to the redemptioner and the other to the county recorder together with said sum of fifty cents, which sum shall be received by said recorder in full of his fees and thereupon the recorder must file said certificate of redemption and mark the word "redeemed," the date and by whom redeemed on the certificate of sale and on the margin of the book where the entry of the certificate is made. If the property is not redeemed within the time herein provided, the collector, or his successor, must make to the district a deed of the property, reciting in the deed substantially the matters contained in the certificate, and that no person redeemed the property during the time allowed by law for its redemption. The title acquired by the district may be conveyed by deed. executed and acknowledged by the president and secretary of the board of directors, or said property may be sold on contract, with the deferred payments, similarly executed and acknowledged; provided, that authority so to convey or contract must be conferred by resolution of the board, entered in its minutes, fixing the price and terms at which such sale or contract may be made, and for the purpose of making such sales or contracts the district may employ an agent or agents. (Added, Stats. 1933, p. 2252; amended, Stats. 1937, p. 1423.)

Partial Redemption

SEC. 46. In all cases where a lot, piece or parcel of land contained in any assessment has been sold or may hereafter be sold to the district for delinquent assessments and the time for redemption has not expired, a partial redemption may be made by the owner or any person in interest separately from the whole assessment of any such lot, piece or parcel of land as follows:

If such lot, piece or parcel of land has a separate valuation shown on the assessment roll, the collector shall estimate the amount due according to the valuation shown on the assessment roll, and the redemption shall be made in the manner provided for in sections 44 and 45 of this act. If such lot, piece or parcel of land or such fractional part of such lot, piece or parcel of land does not have a separate valuation shown on the assessment roll, the collector shall submit the description of the lot, piece or parcel of land, or the fractional part thereof, upon which redemption is requested, to the assessor, who must place a valuation thereon. The collector shall then send a notice by registered mail to the person to whom the land was assessed, to his last known address, giving him notice of the proposed division, and if no protest against said division be filed with the collector within ten days from the date of the mailing of such notice, the collector shall then estimate the amount of such assessments, penalties, costs and interest due on such lot, piece or parcel of land according to such relative or proportionate value, and such redemption shall be made in the manner provided for in sections 44 and 45 of this act; provided, that where written protest to said division is filed by any assessment payer within said ten days, the collector shall withhold such redemption and refer the matter to the board of directors of the district for decision. The board of directors shall set a time for hearing said protest, and cause a notice of the date of said hearing to be mailed by the secretary to the person or persons who have filed written protest, and to the person desiring to make such redemption, at least ten days prior to the date of such hearing, and at the termination of said hearing may confirm the act of the assessor or modify or set aside the same, and its decision in the premises shall be final. In the event of such reference to the board of directors and of their dividing the assessment, the collector shall conform to the action of the board. (Added, Stats. 1933, p. 2252.)

Tax Deed

Sec. 47. The matters recited in the certificate of sale must be recited in the deed and such deed duly acknowledged or proved is prima facie evidence that (a) the property was assessed as required by law, (b) the property was equalized as required by law, (c) the taxes were levied in accordance with law, (d) the taxes were not paid, (e) that at a proper time and place the property was sold as prescribed by law and by the proper officer, (f) the property was not redeemed, and (g) the person who executed the deed was the proper officer.

Such deed duly acknowledged or proved is (except as against actual fraud) conclusive evidence of the regularity of all the proceedings from the assessment by the assessor inclusive up to the execution of the deed. The deed conveys to the district the absolute title to the lands described therein, free of all encumbrances, except when the land is owned by the United States or this State in which case it is prima facie evidence of the right of possession. (Added, Stats. 1933, p. 2252.)

Assessment Roll Prima Facie Evidence

Sec. 48. The assessment roll or delinquent list, or a copy thereof, certified by the collector, showing unpaid taxes against any person or property is prima facie evidence of the assessment, the property assessed, the delinquency, the amount of taxes due and unpaid, and that all the forms of law in relation to the assessment and levy of such taxes have been complied with. (Added, Stats. 1933, p. 2252.)

Sale Not Invalid for Misnomer

Sec. 49. When land is sold for taxes correctly imposed as the property of a particular person, no misnomer of the owner or supposed owner or other mistake relating to the ownership thereof affects the sale or renders it void or voidable. (Added, Stats. 1933, p. 2252.)

Rights of District After Sale

Sec. 50. When lands have been sold or shall hereafter be sold to the district, by reason of nonpayment of taxes, no owner or claimant of such lands, nor any other person, shall remove or destroy any building, fixture, or other improvement on such lands, or cut or remove any timber or wood, or cause to be done any other act which shall tend permanently to impair the value of the lands or the value of the improvements thereon; provided, the provisions of this section shall not apply when such lands have been redeemed from sale or such lands have been sold and disposed of by the district. Violation of any of the provisions of this paragraph of this section shall constitute a misdemeanor.

From and after the date of the recording of the deed to the district, as provided herein, the district shall be entitled to receive and collect all rents, issues and profits arising in any manner from the property so conveyed. The board of directors may demand from the former owner of said property, or any person having any interest therein, or any person in possession, actual or constructive, of said property, or of any part thereof, an accounting for said rents, issues and profits, and may, at any time after the recording of said deed to the district, as aforesaid, demand and receive possession of the property so conveyed, and such possession shall be surrendered to any person designated by the board, authority for such designation being hereby granted. For the enforcement of the provisions of this paragraph of this section, the board of directors is authorized to commence and maintain an action or actions in behalf of the district. The superior court of the county in which the district is situate shall have jurisdiction in the matter of such actions. All moneys recovered under the provisions of this section shall be paid to the district, and shall not be considered as a credit on the amount necessary to be paid in redemption of the property from the sale to the district. (Added, Stats. 1933, p. 2252.)

Settlements by Collector

SEC. 51. On Monday in each week the collector must settle with the secretary of the board for all moneys collected for taxes, and pay the same over to such depositary as shall be designated by the board, and within seven days thereafter he must deliver to and file in the office of the secretary a statement under oath showing (a) an account of all his transactions and receipts since his last settlement, and (b) that all money collected by him as collector has been paid to such depositary, together with the receipts of such depositary for such money so received. (Added, Stats. 1933, p. 2252.)

Public Lands Within District Added

SEC. 52. All lands which are now privately owned and situate within the exterior boundaries of any district organized and existing under this act but which were public lands of the United States or lands of this State at the time of the organization of such district and have not heretofore been added to such district are hereby added to such district. The Legislature hereby finds and determines that all such lands are and will be benefited by the organization, existence and operation of such district. (Former Sec. 52 added by Stats. of 1933, p. 2252, repealed and above section added; Stats. 1935, p. 2103.)

Short Title of Act

SEC. 53. This act shall be known and may be cited and referred to in any action, proceeding or legislative enactment as, "County Water District Act." (Added, Stats. 1933, p. 2252.)

CONSOLIDATION OF DISTRICTS

Districts May Be Consolidated

SEC. 54. Two or more districts organized or existing under this act may be consolidated, as hereinafter provided, whether their boundaries are contiguous or not, and when so consolidated the consolidated district shall possess all the powers and be governed by and be subject to all of the provisions of this act (except as hereinafter otherwise provided) as though originally organized under this act. (Added, Stats. 1935, p. 2103.)

Petition

SEC. 55. When in the judgment of the board of directors of a county water district it is for the best interest of such district that it be consolidated with one or more other districts organized or existing under this act, or when there is presented to said board a petition signed by signers equal in number and possessing the qualifications required by this act for a petition for the organization of a county water district, said board must pass a resolution reciting such facts and declaring the advisability of such consolidation and its willingness to consolidate, and forward to the State Engineer a copy thereof, duly certified to be such by the president or secretary of the district. (Added, Stats. 1935, p. 2103.)

Investigation by State Engineer

SEC. 56. Upon the receipt of a certified copy of such resolution adopted by two or more of such districts, the State Engineer shall forthwith make or cause to be made such investigation as he may deem necessary. (Added, Stats. 1935, p. 2103.)

Report by State Engineer; Recommendation; Report Favorable

SEC. 57. Upon the completion of such examination, but not more than ninety (90) days after the receipt by him of a copy of the resolution from the board last adopting the same, the State Engineer shall submit to the board of directors of each of said districts his report thereon.

In case said State Engineer shall consider the elimination of a portion of the lands included in any of the original districts advisable, he shall recommend the same in his report, stating his reasons therefor. He shall also set out the boundaries of the consolidated district recommended. (Added, Stats. 1935, p. 2103.)

Election

SEC. 58. Within ten (10) days after receiving said report, if the State Engineer deems such consolidation desirable, the board of directors of each of said districts must make an order calling a special election at which shall be submitted to the electors of such district possessing the qualifications required of electors under this act the question whether or not said consolidation shall be effected, which said election shall be conducted and returns canvassed so far as practicable in accordance with the requirements for the general county water district election provided for in this act. The board of directors of each of the two or more districts proposed to be consolidated shall fix a date upon which said election shall be held for the purpose of voting upon such consolidation within their respective districts, provide for the holding of such election on the day so fixed, and give notice of the holding of such election, which notice shall contain the resolution calling the election adopted by such boards of directors of said county water districts. Said boards of directors shall also each fix the boundaries of voting precincts within their respective districts, the location of polling places, and the names of the officers selected to conduct the election, who shall consist of one judge, one inspector and two clerks in each precinct. Notice of such election shall be given for the time and in the manner, and the holding thereof shall be, so near as may be, in accordance with the provisions for the holding of elections for the issuance of bonded indebtedness, as provided by section 15 of this act. The ballot shall contain the words "Consolidation—Yes" and "Consolidation—No," or words equivalent thereto, and if a majority of the votes cast in each district are "Consolidation—Yes," then such districts shall be consolidated.

At such election there shall also be elected the directors of the consolidated district, who shall be nominated and voted for as herein provided as to the nomination and election of directors of a county water district. (Added, Stats. 1935, p. 2103.)

Report of State Engineer Unfavorable; Action by Board

SEC. 59. After receiving said report, if said State Engineer deems such consolidation not desirable, or if no report is received from said engineer within ninety (90) days after the submission to him of said copy of said resolution from the board last adopting the same, said boards of directors, if they shall determine and declare by resolution that the proposed consolidation is desirable, shall make an order calling a special election in the same manner as provided in section 5 hereof, which said election shall be conducted in the same manner and upon the same notice as provided therein. (Added, Stats. 1935, p. 2103.)

Offices

SEC. 60. Upon the voters of said districts consolidating said districts as herein provided, the directors then elected shall thereupon become the directors of such consolidated district and shall qualify, organize and elect officers in the manner provided for a newly organized district. (Added, Stats. 1935, p. 2103.)

Indebtedness

SEC. 61. The report of said engineer shall recommend the apportionment to the lands of the respective districts any outstanding indebtedness that he deems equitable, and the board of directors of the consolidated district, if such consolidation be made, shall, within sixty (60) days after such consolidation, act upon such recommendation and shall apportion to the lands of said consolidated district any outstanding indebtedness as it deems equitable. (Added, Stats. 1935, p. 2103.)

Name and Powers of District

SEC. 62. In the original resolution of consolidation, the said boards of directors of the several districts shall specify the name agreed upon for said consolidated district, and, if such consolidation is adopted at such election, then said consolidation shall be immediately effective and the districts consolidated shall cease to exist and shall be superseded by the consolidated district and the consolidated district under the said name shall immediately succeed to all of the rights, privileges, functions and properties of all of the districts participating in such consolidation and shall be deemed to assume and be subject to all of the indebtedness, bonded and otherwise, thereof, as so respectively apportioned, and all future assessments necessary shall be levied in accordance with such apportionment.

Within ten (10) days after said consolidation is made, the board of directors of said consolidated district shall make an order declaring such consolidation effective and setting out the date that the same became effective and the boundaries of said consolidated district. A copy of said order, duly certified by the president and secretary thereof, shall be forthwith filed with the Secretary of State and a like copy shall be forthwith recorded in the office of the county recorder of each county in which any lands of said consolidated district are situate. (Added, Stats. 1935, p. 2103.)

Sale of Bonds

Sec. 63. Any bonds of any county water district or districts participating in such consolidation pursuant to the provisions of this act which have been authorized by the electors of such district or districts prior to such consolidation, but which have not been issued, may, by order of the board of directors of the consolidated district, be sold or disposed of in the manner required by said County Water District Act and the proceeds thereof applied to the purpose of which such bonds were authorized. (Added, Stats. 1935, p. 2103.)

Informality Not to Invalidate

Sec. 64. No informality in any proceeding nor informality in the conducting of any election, not substantially affecting adversely the legal rights of any citizen, shall be held to invalidate the consolidation of two or more county water districts, and any proceedings, where the validity of such consolidation is denied, shall be commenced within three (3) months from the date of the recording of the order of the board of directors of the consolidated district declaring such consolidation effective; otherwise said consolidation and the legal existence of said consolidated county water district and all proceedings in respect thereto shall be held to be valid and in every respect legal and incontestable. (Added, Stats. 1935, p. 2103.)

Rights of Creditors

Sec. 65. Nothing herein contained shall operate, or be deemed, to impair the rights of bondholders or other creditors, and each such creditor shall be entitled to enforce against and through the consolidated district all his rights against any district consolidated hereunder in the same manner and with the same effect, except for the substitution of the consolidated district for the districts consolidated, as if the consolidation had never been effected. (Added, Stats. 1935, p. 2103.)

COUNTY WATER DISTRICT VALIDATING ACTS

Acts to validate bonds[1] of county water districts and existence of such districts are listed as follows: Stats. 1931, p. 83; Stats. 1935, pp. 472, 1474; Stats. 1937, p. 369.

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[1] Note.—Assembly Bill No. 892 passed by the 1937 Legislature validating *bonds* of county water districts, was vetoed by the Governor and the veto was sustained by the Legislature.

MISCELLANEOUS ACTS REFERRING TO COUNTY WATER DISTRICTS

County Water Districts which have made construction contracts with the United States are within statutes authorizing irrigation districts to assess public lands. Sec. 6a of Act of May 5, 1917, Stats. 1917, p. 243, as amended by Stats. 1935, p. 1741.

Construction contracts between County Water Districts and the United States validated. Stats. 1935, p. 74.

Settlement agreement between Imperial Irrigation District and Coachella Valley County Water District validated. Stats. 1935, p. 75.

County water districts may apply to California Districts Securities Commission for approval of their bonds as investments for savings banks and trust funds. Stats. 1937, p. 1426.

Disqualification of judges.

C.C.P. 170, Subds. 6 and 7, as amended by Stats. 1937, p. 376.

Pleasanton township county water district validated. Stats. 1915, p. 219.

Alameda County Water District validated. Stats. 1915, p. 43.

Castro Valley County Water District validated. Stats. 1931, p. 84.

CHAPTER V

THE CALIFORNIA WATER DISTRICT ACT

Preliminary Statement

This act was passed in 1913 with special reference to organizing districts mainly containing entered government land. Since its passage, the act has been greatly broadened by amendments and additions, and its provisions made of general application.

A water district is formed on petition to county board of supervisors by the holders of title or evidence of title to the majority in area of the lands proposed to be included. After a hearing, if the petition is found sufficient, a special election on organization is called by the supervisors.

Qualified voters are holders of title or evidence of title within the proposed district, and are entitled to one vote for each one dollar's worth of land so included. After organization the directors must adopt by-laws for the control of the district, which must be approved by county board of supervisors. Lands only are subject to assessments. No bonds can be issued except through the approval of the California Districts Securities Commission.

A district organized under this act may either construct irrigation works or contract for their construction with an irrigation or drainage district. It may sell or lease any property or rights belonging to the district, or it may contract with the United States, the State of California, or any subdivision of the State for any works required by the district, including hydroelectric development. All such contracts, however, must be approved by the California Districts Securities Commission.

THE CALIFORNIA WATER DISTRICT ACT

An act providing for the organization of water districts by the board of supervisors of the different counties of the State upon petition therefor by the land owners; providing for the joint government and control thereof by the land owners thereof and the board of supervisors of the county in which the same are formed; providing for the duties in connection therewith of the county officials of each county in which any of the lands contained in said district are located; providing for the acquisition and construction by said district of irrigation works, for the irrigation of the lands embraced therein and for the distribution thereby of water for irrigation purposes; providing for the payment of the debts thereof by a tax levied on the lands embraced therein; providing for the issuance and sale of bonds thereby; providing for the transfer of the properties of such districts to any reclamation, drainage or irrigation project and the extension of contracts providing for such transfer in exchange for the right to receive and use water; providing for the approval of the California Bond Certification Commission of such contracts or trans-

fers; providing that said bonds and contracts or transfers may be investigated by the California Bond Certification Commission; providing for the approval of said bonds and such transfers, or contracts providing therefor by the California Bond Certification Commission in case said investigation is favorably reported and that thereafter said bonds may be lawfully purchased, or received in pledge as security for any money or deposits or for the performance of any act, by banks, banking institutions, insurance companies, trust companies, guardians, executors, administrators and special administrators; providing in certain cases for the transfer of districts from the supervision of one county board of supervisors to another; providing for the dissolution of said districts for nonuser of corporate power; and providing for the annexation of lands to and the exclusion of lands from such districts.

(Approved June 13, 1913, Stats. 1913, p. 815; amended Stats. 1917, p. 1408; 1921, p. 1142; 1927, pp. 8, 1534; 1929, p. 1469; 1931, pp. 784, 1722; title amended, Stats. 1929, p. 1469; Stats. 1931, p. 784; Stats. 1935, pp. 53, 1077; Stats. 1937, p. 1474.)

ORGANIZATION

Organization of Water Districts. Petition. "Evidence of Title"

SECTION 1. The holders of title or evidence of title to a majority in area of lands which form a contiguous body and which are susceptible of irrigation from a common source and by the same system of works may propose the organization of a water district by signing and presenting to the board of supervisors of the county in which the lands or the greater part thereof are situated, at any of its regular meetings, a petition setting forth the following facts—that they propose to form under the provisions of this act a water district to be known as the "______ Water District"; a description of the boundaries thereof, specifying the county or counties in which the lands are located; the number of acres in the proposed district; the place where the principal business thereof is proposed to be transacted; and the source or sources (which may be in the alternative) from which said lands are proposed to be irrigated. The word "irrigation" as used in this act shall include subirrigation, percolation, underground storage and well replenishment. The word "title or evidence of title" as used in this section include the possessory right of entrymen or purchasers of public lands under any law of the United States or of this State whether evidenced by receipts or otherwise. The records of the United States Land Office for the district in which said lands are located; the records of the State Land Office; and the records in the office of the county recorder of the county in which said lands are situated shall be conclusive evidence of ownership for the purposes of this section. (Amended, Stats. 1935, p. 1077.)

Limit of Authority to Issue Bonds

SEC. 1a. No water district organized under the terms of this act may issue bonds in excess of such an amount as may be authorized and designated by the California Bond Certification Commission created by the act entitled "An act relating to bonds of irrigation districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies and trust companies, trust funds, State school funds and any money or funds which may now or hereafter be invested in bonds of cities, cities and counties, counties, school districts or municipalities, and providing under what circumstances the use of bonds of irrigation districts as security for the performance of any act may be authorized,'' approved June 13, 1913, or such other State commission, department or agency that may supersede said commission or succeed to its functions. (Amended, Stats. 1931, p. 1722.)

Publication of Petition. Fixing of Boundaries. Calling of Election on Organization

Sec. 2. Said petition shall be accompanied with an undertaking in a sum not less than one thousand dollars, conditioned that the sureties will pay all of the costs in connection with the proposed organization in case said district shall not be organized. Said undertaking shall be subject to approval by said board of supervisors, which may require an additional undertaking if, in the judgment of said board, the costs in connection with the proposed organization will exceed one-half of the amount of the undertaking submitted. Upon the approval by said board of said undertaking or of any additional undertaking which the board may at that time require, the board shall fix a time for the hearing of said petition, which shall be not less than twenty-two days and not more than forty days thereafter, and the clerk of said board shall cause a notice of the filing of said petition and of the time and place for said hearing to be published at least once a week for three successive weeks in a newspaper of general circulation published in the county in which the lands within said proposed district are situated, or in each county in which any of the lands within said proposed district are situated if said proposed district includes land in more than one county. Said notice shall state the fact of the presentation of said petition to said board of supervisors and the time and place fixed by said board for the hearing thereof, and shall set forth the text of said petition and shall give the names attached to said petition. No mere clerical error in the published text of the petition and no error in the publication of such names and no omission of any name from the list so published shall invalidate any action on said petition or deprive the board of supervisors of jurisdiction to proceed in said matter. The first publication of said notice shall be at least twenty-one days before the day set for said hearing, and if at said hearing it shall appear that the notice given has been defective in any material respect, said board shall set another time for said hearing and cause notice again to be published as hereinbefore provided. At the hearing the board shall hear all relevant evidence in support of said petition or in opposition thereto or in support of or in opposition to requests for inclusion of lands in or exclusion of lands from said proposed district. During or prior to said hearing any holder of title or evidence of title to lands within said proposed district may present to said board a request for exclusion of such lands or any part thereof from said proposed district, and any holder of title or evidence of title to land not within said proposed district but contiguous to any part thereof and susceptible to irrigation from the sources or any of the sources named in said petition may present to the board a request in writing for the inclusion of said land in said proposed district. If, upon the hearing of said petition, it shall be shown to the board that said petition conforms to the requirements of this act and that notice of said hearing has been given as hereinbefore required, the board shall proceed to fix the boundaries of said proposed district, and in so doing shall exclude therefrom any land which the board shall find is not susceptible of irrigation from any of the sources proposed or will not be benefited by such irrigation and, upon application of the owner or owners, may include in such proposed district any lands which are susceptible of irrigation from the source or sources proposed in said petition and will be benefited thereby, if in the judgment of said board said proposed district will have or may obtain a sufficient supply of water for the irrigation of such land proposed to be included. The hearing of said petition may be continued by said board from time to time, but such hearing shall not be continued after thirty days from the time originally fixed therefor, except from day to day, if any petitioner shall object to such continuance. When said board shall have determined upon the lands to be included within said proposed district, it shall make an order establishing and describing the exterior boundaries thereof and describing any lands within said boundaries which are to be excluded from the district, and designating a name for said district, which may be the name proposed in said petition or such other name as the board may determine. Said order shall be entered in full upon the minutes of said board. A finding of the board of supervisors in favor of the genuineness and sufficiency of the petition and notice shall be final and conclusive against all persons except the State of California in a quo warranto proceeding brought by the Attorney General. Any such proceeding must be commenced before the commencement of such a proceeding as is provided for in section 3 hereof, or within one year after the making and entry of the said order of the board of supervisors if such latter proceeding is not instituted, and not otherwise.

After making and entering such an order defining and establishing the boundaries of the proposed district, said board of supervisors shall forthwith call and give notice of an election to be held in such proposed district for the purpose of determining whether or not the same shall be organized under the provisions of this act and for the selection of a board of directors, a tax collector, a treasurer, and an assessor to serve in case said organization shall be effected. Said notice shall be published once a week for at least three weeks previous to such election, in a newspaper of general circulation published in the county in which the lands within said proposed district are situated or in each county in which any of the lands within said proposed district are situated, if said proposed district includes land in more than one county, shall describe the boundaries so established, shall designate the name of the proposed district, and shall state that at said election the voters possessing the qualifications prescribed by this act shall cast ballots for or against said proposed organization and shall select a board of directors, a tax collector, a treasurer, and an assessor to serve in case said organization shall be effected; provided, nothing in this act nor in any other act shall be construed as preventing or limiting the right of the holder of title or evidence of title of any tract of land within any water district formed under the provisions of this act, from petitioning for inclusion or prohibiting such lands from being included, within any irrigation district organized under the California Irrigation District Act, in accordance with and pursuant to the provisions of said California Irrigation District Act, but such inclusion shall not be made unless it shall appear and the board of directors of the irrigation district, within which such lands are about to be included, shall find that the water district within which such lands are situated shall have been in existence not less than five years immediately preceding the date of the filing of the petition for inclusion with the secretary of the board of directors of the irrigation district, and that at the date of the filing of such petition such water district shall not be delivering and is not preparing to deliver water from its irrigation works to such lands for irrigation purposes; provided that no lands within such water district so included within the boundaries of an irrigation district shall be released from any of the burdens, obligations, or liabilities of such water district, because of such inclusion within an irrigation district, but shall, so far as such inclusion is concerned, continue to be in all respects a part of such water district. Where a consolidation of officers as hereinafter provided for is deemed advisable in the organization of a district, the petitioners may request in their petition for organization such consolidation, and the board of supervisors calling the election shall in its order therefor announce such consolidation, and then only one person shall be elected to fill the several offices so consolidated. (Amended, Stats. 1931, p. 784.)

Tax for Preliminary Expenses

SEC. 2a. Immediately upon the formation of the district as provided in section 2 hereof, the board of directors of the district shall have the power to levy and collect the sum of fifty cents per acre for each and every acre of land within the district and all such moneys thus collected shall be used by the board of directors to pay the preliminary expenses incurred in forming the district. (Added, Stats. 1921, p. 1143.)

Canvass of Election Returns

SEC. 2b. At such election there shall be elected a board of five directors, a tax collector, a treasurer, and an assessor. The board of supervisors shall designate the polling place for such election and appoint from the persons eligible to the office of district director one inspector and two judges of election, who shall constitute a board of election for such district election. For the convenience of voters the board of supervisors may divide the proposed district into election precincts and establish the boundaries of such precincts, and in such case shall appoint a board of election as aforesaid for each precinct, and designate a polling place therein. The said election shall be held and the result thereof determined and declared as nearly as may be in accordance with the provisions of sections 22, 23 and 24 of this act relating to district elections; provided, that at such election the last equalized assessment roll or rolls of the county or counties within which any of the lands within said proposed district are situated shall be used in lieu of the assessment books mentioned in section 22 of this act, and the returns of said election shall be forwarded to said board of supervisors, which shall meet on the second Monday following said election and canvass said returns and declare the results of said election. If by such canvass it appears that a majority of all the votes cast at such election are in favor of the organization of the district said board of supervisors shall by an order entered on its minutes declare the territory duly organized as a water district under the name theretofore designated, and said board shall cause certificates of election to be issued to the persons found to be chosen as directors, tax collector, treasurer and assessor of the district. (Amended, Stats. 1931, p. 784.)

Filing of Order by Supervisors

SEC. 2c. Said board of supervisors shall then cause a copy of such order duly certified to be immediately filed for record in the office of the county recorder in each county in which any portion of the lands embraced in such district are situated. From and after such filing, the organization of such district shall be complete. (Added, Stats. 1927, p. 1539.)

Term of Office of Directors and Assessor

SEC. 2d. The officers elected at the election hereinbefore provided for shall immediately enter upon thir duties as such upon qualifying in the manner for such officers herein provided. Said officers shall hold office respectively for two years next succeeding their election and until their successors are elected and qualified. In each water district formed under this act there shall be an election every two years held at such time and place in the district as shall be provided in the by-laws of the district, at which election an assessor, a tax collector, a treasurer, and five directors shall be elected, to hold office for two years and until their successors are elected and qualified. The board of directors may, in its discretion, consolidate any two or more of the offices of assessor, tax collector, and treasurer. The order of consolidation must be made at least thirty days prior to such election; provided, that the board of directors may, at least thirty days before any succeeding election of the district, where the offices have been consolidated, segregate the same. (Amended, Stats. 1931, p. 784.)

Determination of Legality of District

SEC. 3. Any district formed hereunder, in order to determine the legality of its existence, may institute a proceeding therefor in the superior court of the county in which it was organized by filing with the clerk of said county a complaint setting forth the name of the district, its exterior boundaries, the date of its organization and a prayer that it be adjudged a legal water district formed under the provisions of this act. The summons in such proceeding shall be served by publishing a copy thereof once a week for four weeks in some newspaper of general circulation published in each county in which any of the lands contained in said district are located. Within thirty days after the last publication thereof shall have been completed and proof thereof filed with the complaint any person interested may appear and answer said complaint, in which case said answer shall set forth the facts relied upon to show the invalidity of the district. If no answer shall be filed within said time, the court must render judgment as prayed for in the complaint. If an answer be filed the court shall proceed as in other civil cases. Said proceeding is hereby declared to be a proceeding in rem and the judgment rendered therein shall be conclusive against all persons whomsoever and against the State of California.

By-Laws. Evidence of Ownership

SEC. 4. The district must adopt for the government and control of its affairs a code of by-laws, not inconsistent with the constitution and laws of the State or the provisions of this act. Sixty days after they shall have qualified for office the board of directors shall prepare by-laws for the written approval of the board of supervisors of the county in which the district was organized, and, when said by-laws are approved, shall adopt the same by resolution entered in the minutes of the meeting, unless, prior thereto, by-laws shall have been adopted and filed with the secretary of the district by the written assent of the holders of title or evidence of title, including such aforesaid possessory rights, to a majority in area of the lands embraced in said district. The records of the United States land office for the district in which said lands are located; the records of the State land office; and the records in the office of the county recorder of the county in which said lands are situated shall be conclusive evidence of ownership for the purposes of this section. The by-laws shall provide for: the manner of calling, and the time, place and manner of conducting all elections and the manner of giving notice thereof; the mode of voting in person or by proxy; the qualifications and duties of officers, the tenure of their office, the time and manner of their appointment or election; their compensation; the place at which the office of the district shall be kept and maintained and the mode of changing the same; the mode of amending or repealing the by-laws and suitable penalties for the violation of the by-laws not to exceed in any one case two hundred dollars for any one offense. The by-laws may be repealed or amended, or new by-laws may be adopted by the assent of two-thirds of the total vote of the district, given either in writing or by ballot cast at an election of the district. The by-laws in their original form, and any repeal thereof, or amendment or addition thereto, must, together with the approval of the board of supervisors and the resolution of the directors, or the written assent thereto or a memorandum of the returns of the election at which the assent was given, be certified by a majority of the directors and the secretary of the district and must be filed for record with the county recorder of each county in which any of the lands contained in said district are located and by him recorded in a book kept by him for the purpose of recording instruments and writings relating to said district. Until so recorded, no by-law, addition thereto, amendment or repeal thereof, can be enforced against any person not having actual notice of the same. (Amended, Stats. 1931, p. 784.)

OFFICERS—POWERS AND DUTIES

Officers of District. Vacancies. Salaries

SEC. 5. The officers of the district shall be a board of five directors, a secretary, a tax collector, a treasurer, and an assessor, all of whom shall, except as herein otherwise provided, be elected by ballot, except the secretary who shall be appointed by the board of directors. No person shall be qualified to hold any of said offices, except that of secretary, unless he is a holder of title or evidence of title, including such aforesaid possessory rights, to lands contained in the district. Each appointee to office or officer-elect shall forfeit his office unless within ten days after he has notice of his election or appointment or before the expiration of ten days from the commencement of his term of office, when no such notice is given, he shall have filed for record with the county recorder of each county in which any of the lands contained in said district are located, a written acceptance of his office which shall be recorded in a book kept for the purpose of recording instruments and writings relating to the district. If any office shall become vacant by forfeiture, death, resignation, or from any other cause, the same shall be filled by appointment by the board of directors. Until such time as their salaries shall have been fixed by the adoption of by-laws, the officers of the district shall receive the following compensation for their services: the secretary, tax collector, treasurer and assessor such sum each as shall be fixed by the board of directors; and the directors five dollars each for each directors' meeting attended or for each day's service rendered as a director by order of the board of directors, together with any expenses incident to such service, except expenses incurred in traveling between his place of residence and the place at which directors' meetings are held.

Upon the taking effect of this amendatory act of 1931, said board shall appoint a tax collector and a treasurer or said board may consolidate said offices and fill such consolidated office and thereupon the county treasurer, county tax collector and county auditor shall immediately transfer and turn over to the appropriate district officers all moneys, books, records, papers, and documents belonging to or appertaining to the district . (Amended, Stats. 1931, p. 784.)

Organization of Board; Meetings, Etc. Quorum. Records Open to Inspection

Sec. 6. The board of directors shall choose from among its members a president; shall appoint the secretary of the district; shall select and maintain an office for the district in the principal place of business thereof and shall hold regular meetings therein at such time and place as may be agreed upon by resolution adopted, and shall hold therein such other meetings as, from time to time, may be deemed advisable; provided, that no meetings, except regular meetings, shall be valid unless prior thereto each director shall have filed with the secretary his written consent to the same, or unless the president, or three members of the board of directors, shall have called the same by giving each of said diretcors five days' written notice thereof, or unless said directors shall have authorized the same by resolution adopted at a former meeting and shall have caused five days' written notice thereof to be given by the secretary to each director not joining therein. A majority of the board of directors shall constitute a quorum for the transaction of business. The vote of a majority of those present at any meeting where a quorum is had shall be necessary to determine any proposition or resolution presented. The secretary shall keep a record of all the proceedings had at meetings of the board of directors. The books, maps, papers, contracts, records and other documents pertaining to the affairs of the district shall be filed in the office of the district with the secretary and must be open to inspection at all times by any persons interested.

Duties and Powers of Board. Not to Let Contracts Until Bonds Are Sold

SEC. 7. The board of directors shall have the power and it shall be its duty to manage and conduct the business and affairs of the district; to make and execute all necessary contracts; to employ and appoint such agents, officers and employees as may be required, and prescribe their duties. The board of directors shall also have the right and power to acquire, plan, construct, maintain, improve, operate and keep in repair the necessary irrigation works, dams, reservoirs, canals and works for the storage and distribution of water, to supply the lands contained within the district with sufficient water for irrigation purposes, and any drainage or reclamation works connected therewith or incidental thereto; to acquire by purchase, condemnation or other legal means all water, water rights, lands, properties or rights in properties necessary or proper therefor, within or without the district in this State. Said board shall also have power for a valuable consideration to lease or sell or contract for the sale of any property of any kind or rights therein including irrigation works, easements, rights of way, water, water rights, canals, distributing systems, or any other property belonging to the district whenever the same may be necessary or advisable or for the best interests of the district, and to enter into any and all contracts, agreements and obligations with any irrigation or drainage district organized under the laws of the State of California as the board of directors shall deem proper or advisable in the interests of the district, or to carry out or execute any of the purposes authorized or permitted by the provisions of this act and particularly to enter into any contract or agreement with the United States, or the State of California, or any department or agency of either, or with any political subdivision of said State including irrigation and reclamation districts for the storage, regulation, control, development and distribution of water for the irrigation of lands within said district or for the use, control and distribution of any and all drainage waters within said district, or for the construction, extension, operation, control, maintenance and management of any works or other property constructed or acquired by the district, or over which it may have control, or which may be used or useful for the irrigation or drainage of lands within the district, or for providing or furnishing hydroelectric power, or for any or more of said purposes, and to provide in any such contract or agreement that the lands included in any such water district shall be entitled upon the execution of said contract to become a part of any irrigation or drainage project or reclamation project operated directly or indirectly by or under the authority of the United States or the State of California, and to become entitled to receive water, electric power, drainage service or other works or property of such project, including revenues derived from any such work; the board of directors may provide in any such contract for the sale and conveyance to the United States, the State of California, or to any reclamation or irrigation project organized or operated by or under the authority of either thereof or to any irrigation or water district organized under the laws of the State of California on the condition that such district or project shall furnish water to said water district and upon such other terms and conditions as may be agreed upon; provided, however, that all such contracts and transfers shall be first approved by the California Bond Certification Commission.

Said board may also enter into any agreement and do any acts necessary or proper for the performance of such agreement for the transfer or delivery to such district of any irrigation system, canals, rights of way, or other property owned or acquired by said water district in exchange for the right to receive and use water or water supply to be delivered or furnished to said water district by the other party to said agreement; to take conveyances, contracts, leases or other assurances for property acquired by the district under the provisions of this act; to execute by its president and secretary all contracts, leases, conveyances and other documents necessary to carry out the duties and powers specified herein; to institute, maintain and defend in person, or by attorneys, all actions, proceedings or suits at law or in equity necessary or proper to carry out the provisions of this act, or to enforce, maintain, protect or preserve the rights, privileges and immunities created by or acquired in pursuance thereof; to establish, print and distribute among the land owners of the district equitable rules and regulations for the distribution of water; to enter, for the above purposes, either in person or by its agents or employees, in and upon any lands contained in the district; to employ or fix the salary of such persons as may be necessary or proper to fully carry out the uses and purposes of the district; and to do any other lawful thing necessary or proper to carry out the provisions of this act for the uses and purposes for which the district is formed; provided, however, that the board of directors shall not let, or enter into, a contract for the construction of irrigation works nor shall said board of directors construct the same by employees of the district, if the cost thereof is paid out of the proceeds of bonds of the district, until an election has been called and held to determine whether or not bonds of the district shall be issued as provided in section 13 of this act. (Amended, Stats. 1929, p. 1471.)

ASSESSMENTS

Annual Estimate of Funds Needed

SEC. 8. Between thirty and ninety days after the organization of the district, and between said dates annually thereafter, the board of directors must file with the clerk of the board of supervisors of the county in which said district was organized an estimate of the sum required by the district to discharge the unpaid matured obligations thereof at that date and the obligations thereof that will mature or that it is probable will be incurred and mature during the year next following, specifying that portion of said estimate which will be required for the payment of bonds and of the interest on bonds.

Assessment

Between the date on which the district was organized and ninety days thereafter and between said dates in each succeeding year, the assessor must view the lands of the district and assess each parcel or tract of land contained therein at its full cash value and said assessor must, within said time, file with the clerk of said board of supervisors, an assessment book with appropriate headings in which must be listed each parcel or tract of land within the district, specifying: (1) the name, if known (and if unknown, stating that fact), of the holder of title or evidence of title, including such aforesaid possessory rights, thereto; (2) the description thereof by legal subdivisions, metes and bounds, or other boundaries sufficient to identify the same; and (3) the value assessed thereon. If the district is contained in more than one county, then the assessment book shall be prepared with a separate part in a separate volume for the lands of each county.

Hearing of Objections

Within sixty days after the said estimate and the said assessment list shall have been filed as above provided, the board of supervisors shall fix a time not less than twenty-two days and not more than forty days from the time of the meeting of said board of supervisors at which said date is fixed at which said board of supervisors acting as a board of equalization shall meet and hear any objections to the assessment as made. From the time of calling said meeting and until said meeting is held, and during the office hours of said board of supervisors, the assessment list shall be open to public inspection at the office of said board of supervisors. The clerk of said board of supervisors shall give notice of the time and place of said meeting, which shall be the regular meeting place of said board of supervisors, and of the time and place where said assessment list may be inspected by the public by publication once a week for two consecutive weeks in a newspaper of general circulation published in the county in which the lands of said district are situated, or in each county in which any of the lands within said district are situated, if said district includes land in more than one county. The first publication of said notice shall be at least fifteen days prior to the date fixed for said hearing. The said board of supervisors shall meet at said time and place for said hearing and shall hear all objections which may be presented to it regarding the correctness of said assessment list, and shall hear all relevant testimony presented in suport of or in opposition to said objections, and shall continue in session from day to day until all said objections and such evidence have been heard and acted upon. Upon the completion of the hearing of all such objections and all evidence as provided herein the said board of supervisors shall add to or deduct from the valuation assessed to any tract or parcel of land such per centum thereof as shall be sufficient to raise it or reduce it to its full cash value and shall fix the full cash value of any lands contained in said district that shall not have been so assessed. Thereupon, and before said hearing is closed, the assessor shall have the total valuation of all the lands assessed extended into columns, added and a statement thereof made.

Assessment Rate Fixed

When said statement is completed, the board of supervisors must fix such ad valorem rate of taxation upon each hundred dollars in value of the lands so assessed as will raise the sums specified in said estimate. Any changes in or additions to said list shall be entered in said assessment book in the proper place therefor and the order therefor shall be indorsed on the margin of the entry and signed by the chairman and attested by the clerk of said board of supervisors and thereupon said board shall adjourn as a board of equalization and said hearing shall be deemed completed. Within ten days after the hearing is completed, the order of the board of supervisors approving the assessment, the statement of the assessor showing the total valuation of the property assessed, the order fixing the rate of taxation thereon, and the estimate of the sum required by the board of directors of the district for the expense thereof during the year next following shall be signed by the president and attested by the secretary of the district and shall be attached to the assessment book on the last volume thereof, unless the lands of the district are contained in more than one county, in which case a copy thereof shall be signed and attached in a similar manner to each separate part of the assessment book. Thereupon the assessment shall be deemed complete.

Charge Against Each Parcel of Land Computed

Within ten days after the assessment is completed, the assessor shall compute and charge in the assessment book in a place provided therefor in the record of each parcel or tract of land assessed the amount of the tax due thereon and shall file each said separate part of the assessment book with the tax collector of the district and thereafter the charges therein taxed shall be due and payable to the tax collector of the district.

Appeal From Decision of Supervisors

The various orders of the board of supervisors made at the hearing shall be final and when indorsed on or attached to the assessment book shall be conclusive evidence that the assessment was made and the tax levied in accordance with the law; provided, however, that any person interested in lands of the district and aggrieved by the decision of the board of supervisors may, in order to have said assessment, or the tax levied thereon, corrected, modified or annulled, institute an action therefor in the superior court of the county in which said district was organized.

Time to Commence Action to Determine Validity of Assessment. Objection, How to Be Made

No action to determine the validity in any respect of any such assessment, or tax levied thereon, shall be maintained unless the same shall have been commenced within thirty days after the assessment book, or each separate part thereof, is filed with said tax collector as above provided. (Amended, Stats. 1931, p. 784.)

Assessment Apportioned to Bond Fund

Sec. 8a. The board of directors may also include in any annual estimate such an amount as it may deem proper, not exceeding one per centum of the total assessed value of the land in the district, to be apportioned to the bond fund and to be used for the redemption or purchase of bonds of the district not yet due, or for the creation of a sinking fund to pay any of such bonds as they become due. (Added, Stats. 1937, p. 1474.)

Assessment Lien on Property

Sec. 9. From and after the filing of the assessment book, or each separate part thereof, with said tax collector, as provided in section 8 of this act, the charges therein taxed upon any tract or parcel of land within the district and any penalties added thereto as hereafter provided shall constitute a lien thereon and shall impart notice thereof to all persons. (Amended, Stats. 1931, p. 784.)

Delinquency Notice. Publication

SEC. 10. Within ten days after each tax shall have become due and payable, the assessor shall publish in some newspaper of general circulation published in the county in which the district was organized, a notice stating that the same became due and payable on (inserting date) to the tax collector of the district and that unless paid within six calendar months from said date the same will become delinquent, an additional charge of ten per cent thereof added thereto and the delinquent property sold at public auction. The tax must be paid in United States gold coin and the tax collector must mark the date of payment in the assessment book opposite the name of the person paying, and must give to such person a receipt, specifying the property taxed, the amount of the charge thereon and the amount paid, and thereafter must pay the moneys so received to the treasurer of the district. As soon as possible after the tax shall become delinquent the assessment book and each separate part thereof shall be returned to the secretary of the district and the board of directors thereof shall publish once a week for three weeks in some newspaper of general circulation published in the county in which said district was organized a notice containing a description of the delinquent property; the name, if known, and, if unknown, stating that fact, of the person to whom it is assessed; the amount of the taxes and penalties due thereon; and a statement that the delinquent property will be sold therefor in front of the courthouse of said county on a date therein stated, which must be not less then twenty-one or more than twenty-eight days from the first publication, unless an error is made in the publication and discovered prior to the sale, in which case the notice shall be republished in the same manner, specifying the sale for a date not less than twenty-one or more than twenty-eight days from the first publication. (Amended, Stats. 1931, p. 784.)

Purchaser. Certificates of Sale. Redemption of Property. Deed After One Year. Sale by District Purchasing

SEC. 11. At the time and place stated in said notice or at such other time (written notice whereof has been posted at the place of sale) to which the board of directors may have postponed it, not exceeding thirty days in all from the original date of sale, that person is the purchaser who will immediately pay in gold coin of the United States the delinquent tax and the penalty thereon for the smallest portion of the delinquent property, or in case an undivided interest is taxed, then the smallest portion of the interest. In case there is no purchaser in good faith for the same the whole amount of the delinquent property shall, for the amount of the tax and penalty thereon, be struck off to the district as the purchaser.

Certificate of Sale

A certificate of sale shall be executed in duplicate by the board of directors, one of which shall be delivered to the purchaser or to the district, if the property shall have been struck off to the district, and the other of which shall be recorded in the office of the county recorder of the county in which the property sold is located. The certificate shall be dated the day of the sale and shall specify—the description of the property sold; the name, if known, and if not, stating that fact, of the person to whom it was assessed; the fact that it was sold for the amount of the tax and penalty thereon, giving the amount and year of said tax; and the date on which the purchaser will be entitled to a deed.

Certificates Recorded

The recorder upon receiving the certificates of sale must, when he records the same, enter, in a book provided for that purpose and kept with the book provided for the purpose of recording instruments and writings relating to the district, a description of the land sold, corresponding with the description in the certificate, the date of sale, the name of the purchaser, and the amount paid. The entries in said book shall be numbered consecutively on the margin thereof and a corresponding number shall be indorsed on the certificate. At the time of the sale the board of directors shall indorse in the assessment book opposite the description of the property, the portion of the same sold for taxes and penalties, with the date of sale and name of purchaser and shall thereafter pay to the tax collector of the district the amount received on the sale thereof and shall return said assessment book, or any such separate part thereof, to the tax collector from whom the same was received. Thereupon the tax collector must pay the moneys so received to the treasurer of the district.

Redemption of Property Sold

Any person interested in any property sold may redeem the same within one year from the date of sale by paying in gold coin of the United States to the tax collector and in trust for the purchaser or his assignees, the amount for which the same was sold, together with interest thereon at the rate of two per cent per month from the date of sale, and the tax collector must give him a receipt therefor, specifying therein a description of the property redeemed, the name of the purchaser and the date of sale, and he shall credit the amount so paid to the purchaser and shall thereafter pay the same on demand to the purchaser or his assignee. The county recorder of the county in which is located the property redeemed shall, upon presentation of the tax collector's receipt for said amount, mark the word ''redeemed,'' the date and by whom redeemed on both the record of the certificate of sale of said property and on the margin of the memorandum thereof made in the book kept for that purpose.

Purchaser Entitled to Deed After One Year

If no redemption shall be made within said one year, the purchaser, or the district, if said property shall have been sold to the district, shall be entitled to a deed executed by the board of directors, and said deed shall contain all the recitals of the certificate, and when duly acknowledged shall be (except as against actual fraud) conclusive evidence of the regularity of all proceedings from the assessment to the execution of said deed, inclusive, and said deed will convey to the grantee the absolute title to the lands described therein, free of all encumbrances, except state, county, municipal or subsequent district taxes, and except when the land is owned by the United States or this State, in which case it is the prima facie evidence of the right of possession.

All property sold for taxes to the district shall subsequently be assessed for district taxation as though it had never been sold, but it shall not again be sold for delinquent tax, as long as it is owned by the district.

Sale by District Which Became Purchaser

The title acquired by the district, in case it becomes the purchaser at a delinquent tax sale of the district, may be sold at public auction or private sale and conveyed by deed executed and acknowledged by the president and secretary of the district; provided, that authority to so convey must be conferred by resolution of the board entered on its minutes fixing the price, in the best interests of the district, at which such sale may be made. (Amended, Stats. 1931, p. 784.)

Additional Assessment in Case of Failure or Error

SEC. 12. If for any reason any tract or parcel of land contained within the district shall not have been charged with its portion of any tax levied, or if the tax levied on any tract or parcel of land shall be adjudged invalid by any court of competent jurisdiction, then such tract or parcel of land shall at the hearing in any subsequent tax levy be additionally taxed and charged by the board of supervisors of the county in which said district was organized in a sum which bears the same proportion to the total amount of said former tax as its then assessed valuation bears to the total amount of the assessed valuation placed on all the lands in the district at the time said former tax was levied.

BONDS

Plan of Irrigation Works. Special Bond Election. Notice. Ballots

SEC. 13. The board of directors shall, as soon after the organization of the district as is practicable, prepare and adopt a plan of irrigation works and shall estimate the cost of constructing the same and of acquiring the lands, property, property rights, water, and water rights necessary or proper therefor and to supply the lands contained in the district with sufficient water for irrigation purposes, together with every other expense of the district that it is probable will be incurred and become payable before the expiration of one year from the completion of said works, for which the funds of the district then in the treasury or thereafter to be received from a tax previously levied, are inadequate, including the interest on any bonds of the district due and payable prior to said date. Thereafter, when it is considered by the board of directors for the best interest of the district that bonds thereof shall be issued for the purpose of obtaining all of the money necessary to pay the costs and expenses specified in the estimate accompanying the plan of the irrigation works or when the holders of title, or evidence of title, including such aforesaid possessory rights, to a majority in area of the land contained in the district, shall sign and file with the secretary of the district a petition therefor, the said board of directors shall, by resolution adopted and entered in its minutes, order a special election to be held at the time designated by said board at which shall be submitted to the land owners the question of whether or not bonds of the district shall be issued in said amount. A notice of said election specifying the time and place at which the same will be held, the amount of the bonds proposed to be issued, the interest rate and purpose thereof, shall be published once a week for four weeks in some newspaper of general circulation published in each county in which any of the lands contained in said district are located, and proof thereof must be filed with the secretary of the district prior to the date on which said election is held. The ballots cast at such election shall specify the amount and purpose of the proposed bond issue and the rate of interest proposed. If two-thirds of the votes cast thereat are in favor of the issuance of bonds, the board of directors shall cause bonds in the amount specified in the order for the election to be executed and delivered to the treasurer of the district. (Amended, Stats. 1931, p. 784.)

Term, Denomination, Etc., of Bonds. Interest. Coupons. Form. Bonds placed to Credit of District

SEC. 14. Bonds of the district, when issued, shall be payable in gold coin of the United States. Bonds shall be made payable on the first day of January or the first day of July of the years designated by the board of directors, but in no case shall the maturity of any bond be more than forty years from the date thereof; they shall be of the denomination of not less than one hundred dollars nor more than one thousand dollars each; and they shall be signed by the president of the board of directors and attested by the secretary of the district. Each bond must be made payable at a given time for its entire amount and not for a percentage; shall bear interest at a rate not in excess of seven per cent per annum, payable semiannually on the dates therein named at the office of the treasurer upon the presentation and surrender of the proper coupons therefor, and the principal thereof shall be payable when due upon the presentation and surrender thereof to the treasurer by the holder of the same. Each issue shall be numbered consecutively and the bonds of each issue shall be numbered consecutively and bear date at the time of their issue. Coupons for each installment of interest shall be attached to the bonds and shall be numbered the same as the bonds, and attested by the facsimile signature of the secretary of the district.

The bonds shall be substantially in the following form:

"Issue ------ No.------ or value received, ------ water district situated or principally situated in the county of ------, State of California, promises to pay the holder hereof at the office of the treasurer of said district, on the ------ day of ------, 19---, the sum of ------ dollars in gold coin of the United States with interest in like gold coin at the rate of ------ per centum per annum, payable at the office of said treasurer semiannually, on the ------ day of ------ and the ------ day of ------ in each year, on presentation and surrender of the interest coupons hereto attached. This bond is issued pursuant to an election held by said district on the ------ day of ------, 19---, authorizing its issue, and by authority of an act entitled (specifying the title and date of approval of this act).

In witness whereof, the said district, by its board of directors, has caused this bond to be signed by the president of said board and attested by the secretary of said district, with the seal of the district attached, this ------ day of ------, 19---.

Attest: President of said board.

Secretary."

The interest coupons shall be substantially in the following form:

"No.______

The treasurer of ______ water district, State of California, will pay the holder hereof, on the ______ day of ______, 19___, at his office in ______, ______ dollars, gold coin of the United States, out of the funds of ______ water district for interest on bond numbered ______ of said district.

Attest:

____

Secretary of ______ District."

The treasurer of the district shall, when he receives the same, place the said bonds to the credit of the district and he shall, in a book provided for that purpose, keep a record of said bonds and of the payment thereof and the interest thereon. When filed with said treasurer, as above provided, the bonds of the district and the interest thereon shall be and remain until paid a lien on the lands of the district, and a lien for the bonds of any issue shall be a preferred lien to that of any subsequent issue. (Amended, Stats. 1935, p. 1077.)

Test of Validity of Bonds

Sec. 15. As soon as said bonds shall have been delivered to said district treasurer, the board of directors, or any holder of title, or evidence of title, including such aforesaid possessory rights, to lands contained in the district, may, in order to determine that said bonds are a legal obligation of the district, institute a proceeding therefor in the superior court of the county in which the district was organized by filing with the clerk of said county a complaint setting forth that on a date therein named bonds of said district were delivered to the said treasurer, stating the amount of such bonds, and praying that such bonds be adjudged to be a valid legal obligation of such district. The summons in such proceeding shall be served by publishing a copy thereof once a week for four weeks in some newspaper of general circulation published in each county in which any of the lands contained in said district are located. Within thirty days after the last publication thereof shall have been completed and proof thereof filed in the court, any person interested may appear and answer said complaint, in which case said answer shall set forth the facts relied upon to show the invalidity of said bonds. If no answer shall be filed within said time, the court must render judgment as prayed for in the complaint. If an answer be filed the court shall proceed as in other civil cases. Said proceeding is hereby declared to be a proceeding in rem and the judgment rendered therein shall be conclusive against all persons whomsoever and against the State of California. (Amended, Stats. 1931, p. 784.)

Issue of Additional Bonds

Sec. 16. For the purpose of completing the irrigation works and of acquiring the lands, property, property rights, water and water rights necessary or proper therefor and to supply the lands contained in the district with sufficient water for irrigation purposes, or for the purpose of making additions to said irrigation works, or for the purpose of paying for and retiring any issue of bonds previously made, the district may, when it is necessary or proper therefor, issue additional bonds in the same manner as is hereinbefore provided for the original issue of bonds.

Sale of Bonds

SEC. 17. The board of directors shall provide ways and means for the sale of said bonds or for the exchange thereof dollar for dollar for bonds of the State of California. Said board shall in no event, except as herein otherwise provided, sell or exchange, as above provided, any of said bonds for less than the par value thereof, plus the accrued interest thereon, nor shall any of said bonds be sold or exchanged nor shall said treasurer deliver any of the same unless the total proceeds thereof, either in gold coin of the United States or bonds of the State of California at their par value, shall be at least eighty-five percentum of the total amount of said bond issue, nor unless said bonds shall first have been approved as provided in section 18 of this act; provided, however, that the board of directors of a district shall have the power to order the bonds of the district to be sold at not less than ninety per cent of the par value thereof, when the board deems it for the best interest of the district to do so. When any of said bonds are sold by the board of directors, the district treasurer shall transfer the bonds purchased to the purchaser upon receiving the purchase price, and the moneys received therefrom shall be placed to the credit of the district and in a similar manner bonds of the State of California that may be received for bonds of the district shall be placed to the credit thereof to be sold as the board of directors may direct, in no case, however, for less than the par value thereof. (Amended, Stats. 1931, p. 784.)

Water District Bonds Lawful Investment for Trust Funds, Etc.

SEC. 18. Bonds of any water district organized under the provisions of this act may be investigated and certified in the same manner, by the same officers and with the same force and effect as prescribed for the investigation and certification of bonds of irrigation districts, by the provisions of the act entitled ''An act relating to bonds of irrigation districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies and trust companies, trust funds, State school funds and any money or funds which may now or hereafter be invested in bonds of cities, cities and counties, counties, school districts or municipalities, and providing under what circumstances the use of bonds of irrigation districts as security for the performance of any act may be authorized,'' approved June 13, 1913, as amended. (Amended, Stats. 1935, p. 1077.)

Destruction of Unused Bonds

SEC. 19. Whenever there remains in the hands of the district treasurer any unsold bonds of the district which it is not necessary to sell for the purpose of raising funds for the district, the board of directors may call a special election to determine whether said bonds shall be destroyed or not, or may submit such proposition at a general election. The notice thereof shall specify, in addition to the requirements therefor as provided in section 23 of this act, the amount of the bonded indebtedness authorized, the amount of the bonds remaining unsold and the amount thereof proposed to be destroyed. When the vote cast at said election is canvassed by the board of election, if a two-thirds majority of the votes cast shall be found to be in favor of the destruction of said bonds, then the president of the board of directors, in the presence of a majority of the members thereof, must destroy the bonds so voted to be destroyed and the amount thereof shall be deducted from the total amount authorized to be issued, and no part thereof shall thereafter be reprinted or reissued. (Amended, Stats. 1931, p. 784.)

Use of Excess Money to Redeem Bonds

Sec. 20. Whenever the funds of the district are in excess of the amount necessary to complete the construction of the irrigation works or to acquire the necessary water, water rights, property and rights in property therefor and to supply all the lands contained in the district with sufficient water for irrigation purposes and in addition thereto to pay every obligation of the district that is due and payable or that will become due and payable or that it is probable will become due and payable before the expiration of two years from the date on which the last preceding tax of the district was levied, the board of directors may direct the treasurer of the district to pay with said excess (specifying the amount thereof) such an amount of the sold bonds of the district as said excess sum of money will redeem at the lowest value at which they may be obtained for liquidation, in no case for more than the par value thereof. (Amended, Stats. 1931, p. 784.)

Treasurer to Receive Funds for District. Bond Fund. General Fund. Payments from Fund

Sec. 21. The treasurer of the district shall receive to the credit of the district and in trust for the uses and benefits thereof all the funds thereof, and all such funds or moneys belonging to the district, or to which the district is entitled, shall, when received, except as herein otherwise provided, be paid by the person so receiving them to the said treasurer. The said treasurer shall establish for the district two funds, to wit, a bond fund and a general fund, and shall apportion the moneys of the district to said funds, as follows: To the bond fund, that portion of the moneys received from the collection of taxes or from the sale of property for delinquent taxes which bears the same proportion to the total amount so received from the collection of taxes or from the sale of property for delinquent taxes as that portion of the estimate of the board of directors (on which said tax was based) which is required for the payment of bonds and of the interest on bonds bears to the whole amount of said estimate; to the general fund, the balance of all moneys or funds so received. In case lands of the district when sold for delinquent taxes, are struck off to the district as the purchaser, the tax collector of the district shall, in making his accounting with the treasurer of said district, furnish a statement of the lands so sold to the district and of the amount for which the same were sold, and said treasurer shall thereupon estimate that portion of said amount belonging to the bond fund and shall charge the general fund with said portion and shall pay the same from the general fund into the bond fund. The moneys placed in the bond fund shall be used for the payment of bonds and of the interest thereon, and, until the total bonded indebtedness of the district is discharged, shall not be used for any other purpose. The funds of the district shall not, except for the payment of bonds and the interest thereon, be paid out by the treasurer of the district, unless a warrant therefor shall have been drawn and executed by the board of directors. Such warrants are and shall be considered as contracts in writing for the payment of money, and the period prescribed for the commencement of an action based thereon, or connected therewith, is and shall be the term of four years from the date of their issuance. In any proceeding for a writ of mandate to compel the board of directors to issue a warrant, the court must determine the controversy in the manner provided for determining controversies in other civil actions, and shall cause a writ to issue for such sum as may be found to be due. (Amended, Stats. 1931, p. 784.)

ELECTIONS

Voters

SEC. 22. Except as herein otherwise provided, every holder of title or evidence of title (including the aforesaid possessory rights) to land contained in said district, and no other, shall be qualified and entitled to vote either in person or by proxy at any election held by said district. Each person entitled thereto shall have one vote for each dollar's worth of land, the title to which is held by him as above provided. The next preceding assessment book of said district shall, for the purpose of this section, be conclusive evidence of ownership and of the value of the property so owned.

Conduct of Elections. Election Officers. Contest of Election. Proxies

SEC. 23. Except as herein otherwise provided, all elections held under the provisions of this act shall be called, held and conducted at the time, place and in the manner provided by the by-laws of the district; provided, however, that no such election shall be valid unless held within the district and unless notice thereof shall first have been given in the following manner: by publication thereof once a week for at least two weeks in some newspaper of general circulation published in each county in which any of the lands contained in said district are located. The said notice of election shall state the time, place and purposes thereof. At least ten days before any election, the board of directors must appoint from among those persons qualified and entitled to vote at said election an inspector and two judges, who shall constitute a board of election, and three alternates who shall, in the order in which they are appointed, fill any vacancies on said board if any members thereof do not attend at the opening of the polls. Each member of such board of election, or his successor, must, before entering upon his duties as such, take an official oath as such member of the board of election, which may be administered by any officer authorized to administer oaths or by any landholder in the district. The inspector is chairman of the election board and shall appoint the necessary clerks, and if during the progress of the election any judge or clerk shall cease to act, he shall appoint his successor. The polls shall be kept open for the reception of votes from 10 o'clock a.m. until 5 o'clock p.m., when the same must be closed. The election board shall, before the opening of the polls, post in a conspicuous place thereat a list of all persons entitled to vote at said election with the number of votes they are entitled to cast. The ballots used at the election shall be provided by the board of directors and one of the clerks of the election shall deliver one of them to each person qualified to cast a vote or to his representative by proxy. The Australian ballot shall be used and the clerk of the election board at the time of delivering the same to the voter, or his representative by proxy, shall mark thereon in a place provided for that purpose the name of the person casting the ballot and also the name of the proxy, if any, and the number of votes which he is entitled to cast. The person casting the ballot shall stamp a cross with a rubber stamp, to be provided by the board of directors, in the square behind the name of each candidate or proposition he wishes to vote for. The election board shall retain and file with the returns of the election all proxies presented at said election. A list of the ballots cast shall be made by the board of election, containing the name of the voter and, if the ballot be cast by proxy or by the legal representative of the voter, the name of the person casting it; the number of votes cast; and how the person voted on the different matters presented at the election. At the close of the polls the board of election shall at once proceed to canvass the votes and declare the result, and shall, within ten days after the close of the polls, forward a certificate, showing the same and the number of votes cast for or against each candidate or proposition, together with all ballots used and all documents and papers used at such election, to the clerk of the board of supervisors of the county in which the district was organized, and a duplicate copy of said certificate to the secretary of the district. A copy of said certificate, certified by said clerk of the board of supervisors, shall be by him filed for record within ten days from the receipt thereof with the county recorder of each county in which any of the lands contained in said district are located, and by him recorded in a book kept by him for the purpose of recording instruments and writings relating to said district. Any person interested may contest such election, within twenty days after the result thereof has been declared, by filing a complaint in the superior court of the county where such election was held, and if no contest shall be commenced within such said time, the declaration of the result by the board of election shall be final and conclusive. No proxy shall be valid and no proxy shall be accepted or vote allowed thereon at any election held under the provisions of this act unless the same be executed in writing by the person or corporation who, according to the next preceding assessment book of the district, is entitled to the votes for which the proxy is given. The said proxy shall be acknowledged before some person authorized to take certified acknowledgments of conveyances of real property and shall specify the election for which it is given and shall only be used at such election. Every proxy shall be revocable at the pleasure of the person executing it. (Amended, Stats. 1931, p. 784.)

Rights May Be Exercised by Legal Representative

SEC. 24. The rights, privileges and immunities created by this act in favor of any holder of title or evidence of title, including such aforesaid possessory rights, to lands contained in the district may for his benefit and on his behalf be exercised by, and are hereby extended to, his legal representative in all cases where said legal representative is an official of said corporation owning land within the district or is a guardian, executor, or administrator of an estate who is appointed as such under the laws of this State and who as such is entitled to the possession of lands included within said water district belonging to the estate which he represents and who has been by the court duly authorized to exercise the particular right, privilege or immunity which he seeks to exercise; provided, however, that he must, before he casts a ballot at any election of the district, present the board of election or some clerk thereof with a certified copy of his authority, which must be kept and filed with the returns of the election.

CONSTRUCTION OF WORK

Use of Water for District Declared Public Use

SEC. 25. The use of all water required for the irrigation of the lands of any district formed under the provisions of this act, and for domestic and other incidental and other beneficial uses, within such district, together with the rights of way for canals and ditches, sites for reservoirs and all other property required in fully carrying out the provisions of this act, is hereby declared to be a public use, subject to the regulation and control of the state in the manner prescribed by law.

Power to Construct Works Across Streets, Etc. Right of Way Through State Lands

SEC. 26. The board of directors shall have power to construct the irrigation works across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch, or flume which the route of a canal or canals of said works may intersect or cross, in such manner as to afford security for life and property; but said board shall restore the same, when so crossed or intersected, to its former state as near as may be, or in a sufficient manner not to have impaired unnecessarily its usefulness; and every company whose railroad shall be intersected or crossed by said works shall unite with said board in forming said intersections and crossings and shall grant the privileges aforesaid; and if such railroad company and said board or the owners and controllers of said property, thing or franchise so to be crossed, can not agree upon the amount to be paid therefor, or the points or the manner of said crossings or intersections, the same shall be ascertained and determined in all respects as is herein provided in respect to the taking of land. A right of way is hereby given, dedicated, and set apart to locate, construct, and maintain said works over and through any of the lands which are now or may be the property of this State; and also there is given, dedicated, and set apart for the uses and purposes aforesaid, all waters and water rights belonging to this State within the district. The rights of way, ditches, flumes, pipe lines, dams, water rights, reservoirs and other property of like character belonging to any district organized under this act shall not be taxed for State and county or municipal purposes.

Condemnation Proceedings

Sec. 27. In case of condemnation proceedings, the board of directors shall proceed in the name of the district under the provisions of title seven, part three of the Code of Civil Procedure.

Officers Not to Be Interested in Contracts

Sec. 28. No officer of the district shall in any manner be interested directly or indirectly, in any contract awarded or to be awarded, or in the profits to be derived therefrom; and for any violation of this provision such officer shall be deemed guilty of a misdemeanor and such conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

APPORTIONMENT OF WATER

Rules for Distribution. Penalty

Sec. 29. It is hereby expressly provided that all waters distributed for irrigation purposes shall be apportioned ratably to each landowner upon the basis of the ratio which the last assessment of such owner for district purposes within said district bears to the whole acreage assessed upon the district. When the equitable rules and regulations for the distribution of water have been provided by the board of directors and published once a week for two weeks in some newspaper of general circulation published in each county in which any of the lands contained in said district are located, any violation thereof shall be and is hereby declared to be a misdemeanor, and the person committing the same shall, upon conviction thereof, be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars.

No Fees for Services of County Officers

Sec. 30. No supervisor, recorder, auditor or clerk of any county shall receive any fee for any service required to be performed by him under the provisions of this act. (Amended, Stats. 1931, p. 784.)

In Case of Division of a County Excluding Lands of District

Sec. 31. If at any time after the organization of any district hereunder, the boundaries of the county in which the same was organized shall be so changed or modified as to exclude therefrom all of the lands contained in said district, then in that event the records and documents of said district in the possession and care of the board of supervisors of said county, together with a certified copy of the proceedings had by the district under jurisdiction of said board of supervisors, shall be transferred and filed with the clerk of the board of supervisors of the county in which the greater portion of the lands contained in said district are located. All proceedings, petitions, orders or other documents which have been filed with the recorder of the county in which said district was organized, and which, or a certified copy thereof, have not been recorded in the county to which said district is transferred, shall be certified to by said county recorder and filed for record with the county recorder of the county to which said district has been transferred, and by him recorded in a book kept by him for the purpose of recording instruments and writings relating to said district.

From and after the transfer in the manner above specified the board of supervisors of the county to which the district is transferred shall have and exercise all of the jurisdiction, power and authority over said district as was theretofore exercised by the board of supervisors of the county wherein such district was originally formed and thereafter any act or duty which is herein required to be done by the board of supervisors or any officer of the county in which said district was organized shall be performed by the corresponding board of supervisors or other official of the county to which said district has been transferred, and in general the said district shall thereafter conduct and manage its affairs through its proper officials and in conjunction with the proper officials of each county in which any of the lands contained in said district are located as though said district was originally organized in the county to which it was transferred. (Amended, Stats. 1931, p. 784.)

DISSOLUTION

Action for Dissolution of District. . Hearing

Sec. 32. An action may be brought by the attorney general in the name of the people of this state, upon his own information, or that of a private party, for the dissolution of any district formed hereunder for a nonuser of its corporate powers. In such action the complaint and summons shall be personally served upon said district by delivery of a copy thereof to either the president of the board of directors or the secretary of the district. When service has been made upon the defendant and an appearance has been entered or a default of the defendant entered, the court, upon the application of any of the parties, shall thereupon enter an order fixing a day for hearing, which shall, not be less than twenty-five days from the date of the order and shall, also, enter an order directing notice by publication to be given by the clerk to all persons interested in said district either as the owners of land or interests in land in said district or as creditors of said district, or otherwise, requiring them to be and appear on the day fixed for the hearing and show cause, if any they have, why the district named in the complaint as defendant should not be dissolved. The notice shall be published in some newspaper of general circulation published in each county in which any of the lands contained in said district are located, for a period of not less than twenty days. On the day fixed for a hearing, or some later date to which the cause may be continued, the court may proceed with the hearing, due proof having been first made of the service of the notice by publication for the length of time required by the order. Any person interested in the district that is defendant, shall, upon showing his interest, be allowed to file an answer or objections to the dissolution of the defendant and shall from the filing of said answer or objections become a party defendant, and be entitled to all the rights of a defendant in any civil action. If upon the trial of any such action it be determined by the court: that the district is not in debt, or if in debt, that all claims are barred by the statute of limitations and that in addition thereto said district, or the board of directors thereof, are not proceeding to place the lands of the district under irrigation and are not exercising the powers of the corporation and have not been so doing for a period of one year prior thereto, the court shall then enter a decree dissolving the corporation, or make such further order as may be deemed necessary to protect the rights of all parties interested.

GENERAL PROVISIONS

Constitutionality of Act

SEC. 33. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each of said parts thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Nothing Repealed

SEC. 34. This act does not change, modify, add to or repeal any other act or law of this State.

County Assessment Roll May Be Adopted

SEC. 35. The board of directors of any district hereafter organized hereunder may at their option adopt the assessment roll of the county or counties in which the land of the district is contained in so far as said assessment roll affects the lands in the district; and file with the clerk of the board of supervisors a certified copy of such assessment roll, in lieu of the assessment book mentioned in section 8 of this act. (Added, Stats. 1917, p. 1409.)

SALE OF WATER

Rates for Service

SEC. 36. The board of directors of any district hereafter organized hereunder shall have the power to sell water to owners of land in the district and to fix rates for the sale of water, and such rates may vary in different months and in different localities of the district to correspond to the cost and value of the service, and to collect for all water sold and to use so much of the proceeds of the sale of water as may be necessary to defray the ordinary operating expenses of the district and any funds derived from the sale of water, in excess of the amount necessary for operating expenses, shall be applied by the treasurer of the district upon the payment of interest on bonds or to create a sinking fund. (Amended, Stats. 1931, p. 784.)

EXCLUSION OF LAND

Change of Boundaries

SEC. 37. The boundaries of any water district now organized or hereafter organized under the provisions of this act, may be changed, and tracts of land which were included within the boundaries of such district at or after its organization under the provisions of said act, may be excluded therefrom, in the manner herein prescribed; but neither such change of the boundaries of the district nor such exclusion of lands from the district shall impair or affect its organization, or its right in or to property, or any of its rights or privileges of whatever kind or nature; nor shall it affect, impair, or discharge any contract, obligation lien, or charge for or upon which said district was and may become liable or chargeable, had such change of its boundaries not been made, or had not such land been excluded from the district. (Added, Stats. 1929, p. 1474.)

Petition for Exclusion

SEC. 38. The owner or owners in fee of one or more tracts of land which constitute a portion of a water district may jointly or severally file with the board of directors of the district a petition, praying that such tract or tracts, and any other tracts contiguous thereto, may be excluded and taken from said district. The petition shall state the grounds and reasons upon which it is claimed that such lands should be excluded, and shall describe the boundaries thereof, and also the lands of such petitioner or petitioners which are included within such boundaries; but the description of such lands need not be more particular or certain than is required when the lands are entered in the assessment book by the county assessor. Such petition must be acknowledged in the same manner and form as is required in the case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such a conveyance. (Amended, Stats. 1935, p. 53.)

Publication of Notice of Filing Petition

SEC. 39. The secretary of the board of directors shall cause a notice of the filing of such petition to be published once a week for four consecutive weeks in some newspaper published in the county where the district was organized, and if any portion of such territory to be excluded lie within another county or counties, then said notice shall be so published in a newspaper published within each of said counties; or if no newspaper be published therein, then by posting such notice for the same time in at least three public places in said district, and in case of the posting of said notices, one of said notices must be so posted on the lands proposed to be excluded. The notice shall state the filing of such petition, the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or who may be affected by such change of the boundaries of the district, to appear at the office of said board at a time named in said notice, and show cause, in writing, if any they have, why the change of the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they will be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice. (Amended, Stats. 1931, p. 784.)

Hearing on Petition for Exclusion

SEC. 40. The board of directors, at the time and place mentioned in the notice, or at the time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all evidence or proofs that may or shall be introduced by or on behalf of the petitioner or petitioners, and all objections to such petition that may or shall be presented in writing by any person showing cause as aforesaid, and all evidence and proofs that may be introduced in support of such objections. Such evidence shall be taken down in shorthand, and a record made thereof and filed with the board. The failure of any person interested in said district, other than the holders of bonds thereof outstanding at the time of the filing of said petition with said board, to show cause, in writing, why the tract or tracts of land mentioned in said petition should not be excluded from said district, shall be deemed and taken as an assent by him to the exclusion of such tract or tracts of land, or any part thereof, from said district; and the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent by each and all such petitioners to the exclusion from such district of the lands mentioned in the petition, or any part thereof. The expenses of giving said notice and of the aforesaid proceeding shall be paid by the person or persons filing such petition. (Added, Stats. 1929, p. 1475.)

Decision of Board

SEC. 41. If, upon the hearing of any such petition, no evidence or proofs in support thereof be introduced, or if the evidence fail to sustain said petition, or if the board deem it not for the best interest of the district that the lands, or some portion thereof, mentioned in the petition, should be excluded from the district, the board shall order that said petition be denied as to such lands; but if the said board deem it for the best interest of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, and if no person interested in the district show cause in writing why the said lands or some portion thereof, should not be excluded from the district, or if, having shown cause, withdraws the same, or upon the hearing fails to establish such objections as he may have made, then it shall be the duty of the board to, and it shall forthwith, make an order that the lands mentioned and described in the petition, or some defined portion thereof, be excluded from said district; provided, that it shall be the duty of said board to so order, upon petition therefor as aforesaid, that all lands so petitioned to be excluded from said district shall be excluded therefrom, which can not be irrigated from, or which are not susceptible to, irrigation from a common source or by the same system of works with the other lands of said district, or from the source selected, chosen, or provided, or the system adopted for the irrigation of the lands in said district, or which are already irrigated, or entitled to be irrigated, from another source or by another system of irrigation works; provided, that no lands irrigated by means of water, pumped from an underground source or sources shall be entitled to exclusion from any water district on account of being so irrigated, if it shall be shown that such land is or will be substantially benefited by subirrigation from the works of said district or by drainage works provided or required by law to be provided by said district.[1] (Amended, Stats. 1935, p. 1077.)

Holders of Bonds May Give Consent to Exclusion

SEC. 42. If there be outstanding bonds of the district at the time of the filing of said petition, the holders of such outstanding bonds may give their assent, in writing, to the effect that they severally consent that the lands mentioned in the petition, or such portion hereof as may be excluded from said district by order of said board, or the decree of the superior court as hereinafter provided, may be excluded from the district; and if said lands, or any portion thereof, be thereafter excluded from the district, the lands so excluded shall be released from the lien of such outstanding bonds. The assent must be acknowledged by the several holders of such bonds in the same manner and form as is required in case of a conveyance of land, and the acknowledgement shall have the same force and effect as evidence as the acknowledgment of such conveyance. The assent shall be filed with the board, and must be recorded in the minutes of the board; and said minutes, or a copy thereof, certified by the secretary of said board, shall be admissable in evidence, with the same effect as the said assent, and such certified copy thereof may be recorded in the office of the county recorder of the county wherein said lands are situated. (Added, Stats. 1929, p. 1475.)

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[1] The act of 1935 amending section 41 carried an emergency clause.

Organization of District Not Impaired by Exclusion

Sec. 43. In the event the said board of directors shall exclude any lands from said district upon petition therefor, it shall be the duty of the board of directors to make an entry in the minutes of the board, describing the boundaries of the district, should the exclusion of said lands from said district change the boundaries of said district, and for that purpose the board may cause a survey to be made of such portions of the district as the board may deem necessary; and a certified copy of the entry in the minutes of the board excluding any land, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district; but said district, notwithstanding such exclusion shall be and remain a water district as fully, to every intent and purpose, as it would be had no change been made in the boundaries of the district, or had the lands excluded therefrom never constituted a portion of the district. (Added, Stats. 1929, p. 1476.)

Directors May Reestablish Division Boundaries

Sec. 44. In case land is excluded from any district, the board of directors thereof, if they deem it desirable, but not less than thirty days before any election in such district, may reestablish the boundaries of the divisions and election precincts within such district. (New section added, Stats. 1929, p. 1477.)

Guardian and Executor, or Administrator of Estate May Sign Petition for Exclusion

Sec. 45. A guardian and executor, or an administrator of an estate, who is appointed as such under the laws of this state, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereto properly authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act provided, why the boundaries of the district should not be changed. (Added, Stats. 1929, p. 1477.)

Excluded Lands Not Released From Payment of District Bonds

Sec. 46. Nothing in this act provided shall, in any manner, operate to release any of the lands so excluded from the district from any obligation to pay, or any lien thereon, of any valid outstanding bonds or other indebtedness of said district at the time of the filing of said petition for the exclusion of said lands, but upon the contrary, said lands shall be held subject to said lien, and answerable and chargeable for and with the payment and discharge of all of said outstanding obligations at the time of filing of the petition for the exclusion of said land, as fully as though said petition for such exclusion were never filed and said order or decree of exclusion never made; and for the purpose of discharging such outstanding indebtedness, said lands so excluded shall be deemed and considered as part of said water district the same as though said petition for its exclusion had never been filed or said order or decree of exclusion never made; and all provisions which may have been resorted to to compel the payment by said lands of its quota or portion of said outstanding obligations, had said exclusion never been accomplished, may, notwithstanding said exclusion, be resorted to to compel and enforce the payment on the part of said lands of its quota and portion of said outstanding obligations of said irrigation district for which it is liable, as herein provided. But said land so excluded shall not be held answerable or chargeable for any obligation of any nature or kind whatever, incurred after the filing with the board of directors of said district of the petition for the exclusion of said lands from the said district; provided, that the provisions of this section shall not apply to any outstanding bonds, the holders of which have assented to the exclusion of such lands from said district, as hereinbefore provided. (Added, Stats. 1929, p. 1477.)

INCLUSION OF LAND

Change of Boundaries

SEC. 47. The boundaries of any water district organized or existing under the provisions of this act may be changed to include within such district additional land, whether contiguous thereto or not, as hereinafter in this act provided; but no change in the boundaries of any district shall impair or affect its organization or its right in or to property, or any of its rights or privileges of whatsoever kind or nature, nor shall it affect, impair or discharge any contract, obligation, lien or charge for or upon which it was or might become liable or chargeable had such change of its boundaries not been made. (Added, Stats. 1929, p. 1478.)

Petition for Inclusion of Lands

SEC. 48. The holder or holders of title, or evidence of title, or a majority of holders of title, or evidence of title, of any tract or tracts of land may file in the office of the board of directors of any water district a petition praying that said tract or tracts of land be included within said districts; provided that if there is more than one holder of title or evidence of title of said land the petitioners must include the holders of title or evidence of title of at least one-half of the area of said land. If any petitioner is the owner of an undivided interest in said land, or any of it, he shall be deemed to be the owner of such proportion of the area of the land in which he has an interest as his interest bears to the whole of such land. Each signature to such petition shall be acknowledged or proved as provided by law for signatures to an instrument to entitle it to be recorded.[1] (Amended, Stats. 1935, p. 53.)

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[1] The act of 1935 amending section 48 carried an emergency clause.

Publication of Petition by Secretary of Board of Directors

SEC. 49. The secretary of the board of directors shall cause a notice of the filing of said petition to be given and published once a week for four consecutive weeks in some newspaper published in the county where the district was organized and if any portion of such territory to be included lie within other county or counties, then such notice shall be so published in a newspaper published within each of said counties; or if no newspaper be published therein, then by posting such notice for the same time in at least three public places in said district and in case of the posting of said notices, one of said notices must be so posted on the lands proposed to be included. The notice shall state the purpose of the petition and describe the boundaries of the tract or tracts of land proposed to be included and give the names of the petitioners, and it shall notify all persons interested in or that may be affected by the proposed inclusion of said land within the district to appear at the office of said board at a time named in said notice for the hearing of said petition and objections thereto and show cause in writing, if any they have, why said land or any of it should not be included as proposed in said petition. The time to be specified in the notice for the hearing of said petition and any objections thereto shall be the regular meeting of the board next after the expiration of the time for the publication of said notice. The petitioners shall advance to the secretary sufficient money to pay for the publication of said notice. (Amended, Stats. 1931, p. 784.)

Hearing on Petition by Board of Directors

SEC. 50. The board of directors, at the time and place mentioned in the said notice, or at such other time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition and all the objections thereto presented in writing by any person showing cause as aforesaid why said proposed change of the boundaries of the district should not be made. The failure by any person interested in said district, or in the matter of the proposed change of its boundaries, to show cause, in writing, as aforesaid, shall be deemed and taken as an assent on his part to a change of the boundaries of the district as prayed for in said petition, or to such change thereof as will include a part of said lands. And the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent on the part of each and all of such petitioners to such a change of said boundaries that they may include the whole or any portion of the lands described in said petition. (Added, Stats. 1929, p. 1479.)

Conditions That May Be Required by Board of Directors

SEC. 51. The board of directors to whom such petition is presented, may require, as a condition precedent to the granting of the same, that the petitioners shall severally pay to such district such respective sums, as nearly as the same can be estimated (the several amounts to be determined by the board), as said petitioners or their grantors would have been required to pay to such district as assessments, had such lands been included in such district at the time the same was originally formed. (Added, Stats. 1929, p. 1479.)

Determinations of Board on Final Hearing

SEC. 52. If the board of directors, after the hearing herein provided for, shall determine that said petition complies with the requirements hereof and that the inclusion within the district of the tract or tracts of land described in said petition, or some portion or portions thereof, will be for the best interests of the district and if no protest against the inclusion of such land is made, or if such protest be made and enough signatures be withdrawn therefrom so that said protest is no longer sufficient, the board shall order the boundaries of the district to be changed so that said tract or tracts of land, or such portion or portions thereof as the board shall deem it for the best interests of the district to include, shall be included within the district, but no land shall be so included unless the board, after the hearing aforesaid, shall determine that it can be irrigated by means of some of the works of the district or by means of practicable works connecting therewith and will be benefited by such irrigation; and if the board determines that only a portion or certain portions of the tract or tracts of land described in said petition should be included, said petition shall be dismissed unless the petitioners include a majority of the holders of title or evidence of title of said portion or of each of said portions, of said tract, representing also at least one-half the area of said portion or of each of said portions, or unless, within sixty days from the time such determination is made, there shall be filed with the board the consent in writing, of a majority of the holders of title or evidence of title of said portion, or of each of said portions of said tract or tracts of land, representing also at least one-half of the area of said portion or of each of said portions. The order shall describe the boundaries of the land so included within the district, and if said land adjoins any portion of the district the order shall also describe that portion of the boundary of the district which coincides with the boundary of the land so included, and for the purposes of said order the board may cause a survey to be made of such portions of said boundaries as may be deemed necessary. If more than one petition for the inclusion of lands has been presented, the board may in one order include within the district any number of separate tracts of land; but the owner or owners of separate tracts of land may join in a single petition the application for inclusion of separate tracts of land. Any public land of the United States of America may be included within any water district by such order of the board of directors without any petition therefor except as may be required by the laws of the United States, if such land can be irrigated by means of any of the works of the district or by any practicable works connecting therewith and will be benefited by such irrigation. When land is included within a water district and the board of directors finds that such inclusion without condition would work an injury to the land already within the district either by an impairment of water rights or by requiring a greater expense for furnishing water to the lands proposed to be included, the board may prescribe conditions upon such inclusion of land, either by providing for priority of right to water for the land already in the district or for the payment of an additional annual charge upon the land included or such other conditions as may to the board seem just. If any such conditions are prescribed by the board all the owners of the land subject to such conditions must, before any order for its inclusion is made, sign an agreement with the district describing the land so to be included and specifying such conditions. The signatures to said agreement must be acknowledged or proved as provided by law for the signatures of instruments to be recorded, and said agreement must be recorded in the office of the county recorder of the county in which such lands are situated, and thereupon and upon the recording of a copy of the order including such lands as hereinafter provided, such lands shall become a part of the district subject to the conditions of said agreement. (Added, Stats. 1929, p. 1479.)

Protests Against Inclusion

SEC. 53. If a protest against the inclusion of such lands, signed by not less than three per cent of the holders of title or evidence of title to lands within the district and holding the title or evidence of title to not less than three per cent in value of the lands within the district according to the last equalized assessment roll of said district, shall have been presented to the board of directors and upon the hearing of said matter said protest shall not be withdrawn, or after the withdrawal therefrom of any signatures it shall be signed by not less than three per cent of the holders of title or evidence of titles to lands within the district and holding the title or evidence of title to not less than three per cent in value of the lands within the district according to the last equalized assessment roll of said district, or if the board of directors deem it not for the best interests of the district to include therein the lands described in said petition for inclusion, or any of them, the board shall adopt a resolution stating the facts and describing the boundary of the tract of land proposed to be included in the district; but before calling the election provided for in the next section, the board may require an undertaking, with sufficient sureties, from the petitioners for the inclusion of said land conditioned that the petitioners or the sureties will pay all the cost of holding such election in case such inclusion shall be denied. (Added, Stats. 1929, p. 1481.)

Election on Inclusion

SEC. 54. Upon the adoption of the resolution mentioned in the last preceding section, the board shall order that an election be held within said district, to determine whether the boundaries of the district shall be changed as mentioned in said resolution; and shall fix the time at which such election shall be held, and cause notice thereof to be given and published. Such notice shall be given and published, and such election shall be held and conducted, the returns thereof shall be made and canvassed, and the result of the election ascertained and declared, and all things pertaining thereto conducted in the manner prescribed by said act in case of a special election to determine whether bonds of a water district shall be issued. The ballots cast at said election shall contain the words "For change of boundary," or "Against change of boundary," or words equivalent thereto. The notice of election shall describe the proposed change of the boundaries in such manner and terms that it can readily be traced. (Added, Stats. 1929, p. 1481.)

Order of Board After Election on Inclusion

Sec. 55. If at such election a majority of all the votes cast at said election shall be against such change of the boundaries of the district, the board shall order that said petition be denied, and shall proceed no further in that matter. But if a majority of such votes be in favor of such change of the boundaries of the district, the board shall thereupon order that the boundaries be changed in accordance with said resolution adopted by the board. The said order shall describe the entire boundaries of said district, and for that purpose the board may cause a survey of such portions thereof to be made as the board may deem necessary. (Added, Stats. 1929, p. 1482.)

Filing of Order of Board

Sec. 56. Upon a change of the boundaries of a district being made, a copy of the order of the board of directors ordering such change, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district, and thereupon the district shall be and remain a water district, as fully, and to every intent and purpose, as if the lands which are included in the district by the change of the boundaries, as aforesaid, had been included therein at the original organization of the district. (Added, Stats. 1929, p. 1482.)

Certified Copy of Order of Board Admissible as Evidence

Sec. 57. Upon the filing of the copies of the order, as in the last preceding section mentioned, the secretary shall record in the minutes of the board the petition aforesaid; and the said minutes, or a certified copy thereof, shall be admissible in evidence, with the same effect as the petition. (Added, Stats. 1929, p. 1482.)

Guardian and Executor or Administrator May Sign Petition for Inclusion

Sec. 58. A guardian, an executor or an administrator of an estate, who is appointed as such under the laws of this State, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereunto authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act mentioned, why the boundaries of the district should not be changed. (Added, Stats. 1929, p. 1482.)

Board of Directors May Reestablish Division Boundaries After Inclusion

Sec. 59. In case land is included within any district, as aforesaid, the board of directors thereof may reestablish the boundaries of the divisions and election precincts within such district, so as to include such land therein and so as to make such divisions as nearly equal in size as may be practicable. (Added, Stats. 1929, p. 1482.)

Title of Act

Sec. 60. This act shall be known and cited as the ''California Water District Act.'' (Stats. 1931, p. 784.)

WATER DISTRICT VALIDATING ACT

An act establishing and validating the organization and existence of water districts was approved June 11, 1935. (Stats. 1935, p. 1068.)

APPENDIX

CONSTITUTIONAL AND STATUTORY REFERENCES

Texts Included in This Publication

CALIFORNIA CONSTITUTION

Section	Page herein	Section	Page herein
Art. I, Sec. 14	10	Art. XI, Sec. 16½	54
Art. IV, Sec. 31	13	Art. XIII, Sec. 1¾	42
Art. XI, Sec. 13	10	Art. XIV, Sec. 1	9
Art. XI, Sec. 13½	42	Art. XIV, Sec. 3	9

CIVIL CODE

Section	Page herein	Section	Page herein
551	18	1007	32
844	19	3342	31

CODE OF CIVIL PROCEDURE

Section	Page herein	Section	Page herein
170, Sub. 6	31	1274b	181
1241	11		

FISH AND GAME CODE

Section	Page herein	Section	Page herein
535	15	539	16
537	16	540	16
538	16	541	17

INSURANCE CODE

Section	Page herein
11870	30

LABOR CODE

Section	Page herein	Section	Page herein
1720	24	1774	26
1721	24	1775	26
1724	24	1776	26
1726	24	1777	26
1727	25	1781	26
1728	25	1811	26
1729	25	1812	26
1770	25	1813	27
1771	25	1814	27
1772	25	1815	27
1773	25	1816	27

PENAL CODE

Section	Page herein	Section	Page herein
72	24	607	15
592	14	627	14

POLITICAL CODE

Section	Page herein	Section	Page herein
2737	18	3898	201
3804a	194	4024	27
3897*	198	4041c	191
3897d	195		

VEHICLE CODE

Section	Page herein
400	29

GENERAL LAWS**

Year Chap. Page	Page herein	Year Chap. Page	Page herein
1897 : 189 : 254	61	1919 : 370 : 778	204
1903 : 5 : 3	173	1921 : 600 :1018	168
1903 : 359 : 476	28	1923 : 16 : 21	56
1907 : 35 : 53	57	1923 : 225 : 449	205
1907 : 298 : 569	203	1923 : 448 :1053	20
1911 : 397 : 730	28	1927 : 748 :1415	150
1911 : 719 :1407	12	1929 : 64 : 136	150
1911 : 750 :1460	58	1931 :1073 :2263	33
1913 : 387 : 815	248	1933 : 189 : 642	54
1913 : 592 :1049	206	1933 : 448 :1165	42
1915 : 1 : 1	171	1933 : 994 :2557	193
1917 : 160 : 243	183	1935 : 747 :2101	190
1917 : 562 : 781	189	1935 : 833 :2250	149
1917 : 591 : 905	181	1937 : 24 : 92	45
1917 : 606 : 936	191	1937 : 213 : 508	192
1919 : 303 : 487	21	1937 : 672 :1876	158
1919 : 356 : 751	179		

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* By a bill introduced and passed at the 1938 Special Session of the Legislature, section 3897 of the Political Code was repealed and a new Chapter VIIIa, consisting of sections 3833 to 3836.2, was added to Title IX, Part III of the Political Code. All of these sections relate to the sale of tax-deeded lands. The bill is now before the Governor for approval as this publication goes to press March 17, 1938.

** References are to statutes as originally enacted.

INDEX

GENERAL PROVISIONS

ACTIONS
  contractor's bond 21
  disqualification of judges 31

ADVERSE POSSESSION
  against districts 32

APPOINTMENT OF DEPUTIES 27

BONDS
  contractor on public work 28
  payment of premiums 28

CANALS AND WORKS
  fish screens 15
  penalty for injury 15
  penalty for trespass 14
  protection of 14

CLAIMS
  against contractors 21
  for material, labor, etc. 22
  penalty for false claims 24

DEPUTIES
  appointment of 27

DISTRIBUTING SYSTEM
  municipal 28

EMINENT DOMAIN
  constitutional provision 10
  statutory provisions 10

FISH SCREENS
  acceptance of 16
  examination of 15
  failure to install unlawful 16

HIGHWAYS
  injury from drainage 18
  obstruction of 18

JUDGES
  disqualification of 31

LABOR
  laws relating to public works 24

LABORERS
  claims of 22

LIABILITY
  of officers and employees 29
  of public agencies 29

LEGISLATURE
  power over districts 10

MOTOR VEHICLES
  liability of government agencies 29

MUNICIPAL CORPORATIONS
  water distributing system 28

OFFICIAL BONDS
  payment of premium 28

PRESCRIPTION
  against districts 32

PUBLIC EMPLOYEES
  immunity of 31
  workmen's compensation 30

PUBLIC WORKS, CONSTRUCTION OF
  certificate of cost 20
  estimate of cost 20
  force account 20
  hours of labor 26
  labor laws 24
  plans and specifications 20

RIGHTS OF PERSONS ASSOCIATED
  in use of ditches, flumes, pipe lines 19

RIPARIAN RIGHTS
  limitation on 9

STATE ENGINEER
  duties as to fish screens 17

WAGES ON PUBLIC WORK
  act concerning 24
  penalty for violation 26
  records of 26
  regulation of 24

WATER CORPORATIONS
  acquisition of stock by irrigation districts 13

WATER DISTRICTS (*See* FOREWORD REFERENCES)
  California Water Conservation District Act 5
  California Water Storage Act 5
  Conservation Act of 1929 7
  Conservancy Act 6
  County Power Pumping District Act 7
  County Waterworks District Act 6
  Districts Organization Act 7
  Municipal Improvement District Act 6
  Palo Verde Irrigation District Act 7
  Reclamation District Laws 6
  Water Conservation Act of 1927 6

WATERS, USE OF
  conservation 9
  obstruction of highways 18
  public use defined 9, 11
  riparian rights 9
  sale, rental, distribution 9, 12

WORKMEN'S COMPENSATION
  public employees 30

INDEX

CALIFORNIA DISTRICT SECURITIES COMMISSION ACT AND RELATED LAWS

ACT, CALIFORNIA DISTRICT SECURITIES COMMISSION 33

APPROPRIATION 41

APPROVAL OF PERIODICAL BOND SALES 37

BONDS (*See* Irrigation District Act, Index, post)
  cancellation of 58
  cancellation of coupons 58
  certified, are legal investments 37
  citations, validating acts 57
  compromise 39
  defaulted obligations, payment of 38
  exemption from taxation 42
  issuance of duplicates 57
  limitations on approval 34
  place of payment 42
  type of payment 42

BOND CERTIFICATION COMMISSION
  act repealed 41
  succeeded by Securities Commission 40

CERTIFICATES OF DEPOSIT
  permit for 39

CERTIFICATION
  form of certificate 37
  resolution by district board 34
  types of districts that may apply for 34

COMMISSION
  creation, personnel, compensation 34

CONTROLLER
  duties of 35

COUPONS, BOND
  cancellation of 58

DEFAULTED BONDS AND OBLIGATIONS 38
  action for compromise 42

DISTRICT SECURITIES COMMISSION (*See* Irrigation District Act, Index, post)

DISTRICTS
  affected by District Securities Commission Act 34

EMPLOYEES
  appointment and compensation of 40

EXAMINATION OF BOOKS AND RECORDS
  of irrigation districts 38

EXPENDITURES FROM BOND PROCEEDS
  approval of 36

FUNDS
  appropriation by legislature 41
  contribution by districts for investigations 41

IRRIGATION DISTRICTS
  court action for compromise of debts, 1933 act 42
  jurisdiction of Commission 34
  refinancing act of 1937 45

LEGAL INVESTMENTS
  certified bonds 37

MEETINGS 40

POWERS OF COMMISSION
  defaulting districts 38
  inspections 36, 38
  negotiations with bondholders 39
  supervision 38, 39

PUBLIC FUNDS
  deposit of 54
  security for deposits 54
  state bank deposits 56

REFINANCING ACT OF 1937 45
  application of act 47
  approval of plan by Districts Securities Commission 47
  appeals from judgment 53
  hearing on plan 49
  judgment fixing value of bonds 52
  nonacceptinig bondholders 50
  termination of act 53

REPORT ON DISTRICTS
  annual by districts 38
  controller on bonds 35
  on district bonds 35
  payment of cost of 41

RULES AND REGULATIONS 40

STATE ENGINEER
  duties in inspection of work 36

VALIDATING ACTS BY LEGISLATURE
  citations of 57

WARRANTS (*See* IRRIGATION DISTRICT INDEX, post)

WATER LEASES (*See* IRRIGATION DISTRICT ACT, INDEX, post)

INDEX

CALIFORNIA IRRIGATION DISTRICT ACT AND RELATED LAWS

Page

- ACTIONS
  - consolidation of 132
  - immaterial errors 132
  - limitation of 133
  - re validity of assessment 131, 132
  - re validity of bonds 131, 132
  - rules of pleading 132
- AGREEMENTS (*See* COOPERATION) 181
- APPORTIONMENT OF WATER 79
- ASSESSMENT
  - amount of 105
  - bond payments, for 100
  - book 102
  - book, evidence of what 119
  - book, time of completion of 104
  - cancellation in case of error 194
  - certificate of sale of lands for delinquent 113
  - completion of works, for 101
  - delinquent list, publication of 111
  - delinquent, when 110
  - equalization of 105
  - failure to make 107
  - failure to make, extension of time 108
  - improvements, exempt from 102
  - land previously omitted 108
  - levy of 105
  - lien when 109
  - notice of 110
  - notice of delinquency 110
  - objections to 105
  - omitted, levy for 103
  - payable in two installments, when 111
  - penalties on delinquent 113
  - rate of, how ascertained 126
  - redemption from delinquent sale 114
  - refund of, when 109
  - special 125, 126
  - special rate 103
  - state lands 191
  - suit to collect 111
  - suit to determine validity 131, 132
- ASSESSOR
  - bond of 80
  - deputies 104
  - duties of 102
  - election of 70, 80
- ASSESSOR, TREASURER AND COLLECTOR
  - election of 70
- BOARD OF DIRECTORS (*See also* DIRECTORS)
  - appointment of when no election held 81
  - change election precincts 77
  - condemnation 78
  - construction of works 75
  - duties and powers 72, 79

BOARD OF DIRECTORS—Continued Page
financial statements, publication 73
general powers 73, 79
keep ditches full 130
lease district works 77
may purchase works 129
monthly meetings 72
organization of board 72
special meetings 72
tenure of office 72

BONDS. (*See also* DISTRICT SECURITIES COMMISSION ACT INDEX, *Ante*, and DISTRICT SECURITIES COMMISSION, this Index.)
action by assessment payer 132
assessment to pay 100
calls, approval of 93, 97
cancellation of unsold 145
certification of 91
denominations of 93
determination of validity of 129, 131
election 92, 93
estimate of amount 90
exchange for works, when 129
form of 93
funding or refunding 95
funding or refunding, payment of 98
funding or refunding, payment out of specific sources 98, 99
funding or refunding, redemption of 97
funding or refunding, sale or exchange 98
inclusion of interest in 90
interest payment 120
interest rate 94
maturities 94
officers 80
private sales, approval of 95
purposes for which issued 90
redemption, approval of 94, 97
redemption of 120
refunding 95
sale of 95
sinking fund for retirement 106
specific sources of payment 99
suit to determine validity of 131, 132
validity, determination of 129, 131

BOUNDARIES
fixing of 65

CANALS
leasing of 77
run to full capacity during high water 130

CANCELLATION
erroneous assessments 194

CEMENT PLANTS
may acquire 191

CHANGE OF NAME 150

CLAIMS
officer's, employee's expenses 122
payment of 122

COMPLETION OF WORKS
assessment for 101

Page

CONSOLIDATION OF DISTRICTS
- act permitting — 168
- apportionment of indebtedness — 170
- election on consolidation — 169
- investigation by State Engineer — 169
- name of district — 170
- offices of — 170
- report by State Engineer — 169
- resolution to State Engineer — 169
- sale of bonds — 171
- validating act — 171

CONSOLIDATION OF OFFICES — 85

CONSTRUCTION OF WORKS
- bids for — 121
- financial and progress reports — 123
- general provision for — 75

CONSTRUCTION OF WORKS OVER CANALS AND HIGHWAYS
- condemnation proceedings for — 73, 124
- general provision for — 124

CONTESTS
- periods for — 133

CONTRACTORS' BONDS — 121

CONTRACTS
- award of — 121
- general provision for — 126
- officers not to be interested in — 125
- right to make — 73
- with United States — 183
- with Water Project Authority — 190

CONVEYANCES — 76

COOPERATION
- with districts in other states — 181
- with Federal Government — 183
- with Federal Government under 20-year Extension Act (U. S. Reclamation Service) — 189

DELINQUENT LIST
- publication of — 111

DELINQUENT SALE
- certificates of — 113

DEPOSIT OF MONEYS — 85

DEPUTY TREASURER AND COLLECTOR
- compensation of — 124
- general provisions for — 85

DIRECTORS
- changing number of — 86
- election divisions — 69
- number of — 69
- qualifications — 84

DISSOLUTION
- delinquent taxes not a bar to — 117
- escheat of funds — 181
- involuntary, conditions for — 179
- involuntary, disposition of property — 180
- involuntary, investigation by State Engineer — 180
- involuntary, quo warranto — 179
- voluntary, action in superior court — 177
- voluntary, discharge of debts — 178
- voluntary, district may dissolve — 173
- voluntary, election on dissolution — 174, 176
- voluntary, petition for dissolution — 174

Page

DISTRICT ATTORNEY
- duty of 108
- suit to collect expenses of assessment, by 107

DISTRICTS
- union for production of material 191

DISTRICTS SECURITIES COMMISSION
- agreements re warrants 129
- approval of leases and contracts 79, 127
- call and redemption of bonds 94
- changes in proposed issue of bonds by irrigation districts 91
- funding or refunding bonds 95, 100
- inspection of work by State Engineer on behalf of 122
- investigation of district report and estimate of bonds 91
- private sale of bonds 95
- report of commission to directors of irrigation district 91
- report of irrigation district, to 91
- revenues allocated to reserves 100

DRAINAGE BY IRRIGATION DISTRICTS
- duty to provide 203

ELECTIONS
- ballots 82
- bond 92, 93
- canvass of votes 83
- change of precincts 77
- contests 71
- counting of votes 83
- failure to hold 81
- general notice of 82
- hours polls open 82
- inclusion of lands 143
- nominating petitions 83
- officers of 82
- on organization 69, 70, 71
- reducing bonded debt 145
- returns 83
- special assessments, calling of 125
- statement of results 84
- voting 83

ELECTORS
- qualifications of 70

ELECTRIC POWER
- by irrigation districts 204
- irrigation districts over 500,000 acres 173
- rights of way for power lines 205
- use of income from 106

EMERGENCY
- creation of indebtedness due to 125

EMINENT DOMAIN
- no taking except by 130

ENGINEER'S REPORT FOR BONDS 90

EQUALIZATION OF ASSESSMENTS 105

EXCLUSION OF LANDS
- assent of bondholders 136
- change of directors' divisions 137
- determination 136
- hearing of petition 135
- lands may be excluded, when 134
- lands held by district 134
- notice of hearing of petition 135
- petition for exclusion 134
- power of board to exclude 136
- publication of petition 135
- recording change of boundaries 137
- release from bond lien 136, 137
- rights of guardians, etc. 137

Page

FEDERAL GOVERNMENT
cooperation with ---- 183

FINANCIAL STATEMENTS
publication of ---- 73
submitted to State Engineer, when ---- 123

FUNDS
created ---- 131
special accounts ---- 77

GENERAL POWERS OF DIRECTORS ---- 73, 79

GENERAL PROVISIONS
actions by bondholders ---- 147
existing districts, validity not affected ---- 146
name of district ---- 147
repeal of prior acts ---- 147
saving clauses ---- 147
time of taking effect of act ---- 147
title of act ---- 147

IMPROVEMENT DISTRICTS WITHIN IRRIGATION DISTRICTS
actions re validity assessments, etc. ---- 157
alternative mode of creation ---- 152
assessments ---- 153
assessments according to benefits ---- 153
assessments for operation and maintenance ---- 156
assessments, supplemental ---- 155
assessments, water tolls in lieu of ---- 156
boundaries of ---- 153
dissolution of ---- 155
order creating ---- 153
organization, who may propose ---- 150
petition, contents of ---- 151
petition, hearing on ---- 153
petition, notice of ---- 153
petition, who may sign ---- 150
powers of board of directors ---- 156
refinancing act of 1937 ---- 158
validating acts, citations of ---- 157
work, performance of, by whom ---- 155

IMPROVEMENTS EXEMPT FROM ASSESSMENTS ---- 102

INCLUSION OF LANDS
agreement of owners to terms of inclusion ---- 140
conditional election ---- 143
conditions imposed ---- 140, 143
determination by directors ---- 140
election on inclusion, when ---- 143
hearing of petition ---- 139
lands may be included ---- 138
notice of election ---- 143
notice of hearing of petition ---- 139
order on inclusion ---- 143
petition for inclusion ---- 138
protests ---- 142
publication of petition ---- 139
recording change in boundaries ---- 144
recording petition in minutes ---- 144
redivision of district ---- 144
results of election, how determined ---- 143
rights of guardians, etc. ---- 144

INCOME FROM WATER OR ELECTRIC POWER
use of ---- 106

INDEBTEDNESS
power to incur ----126

INTEREST RATE ON BONDS ---- 94

Page

IRRIGATION DISTRICTS
- act re liability of ---- 149

IRRIGATION DISTRICTS, OVER 500,000 ACRES
- act ---- 171
- electric power ---- 172, 173

LANDS
- need not be contiguous ---- 62
- purchase of tax deeded ---- 195
- redemption by installments ---- 192
- tax deeded, water rights of ---- 193

LEASE OF DISTRICT WORKS ---- 77
- length of ---- 146
- lessee, bond of ---- 146
- of water for power ---- 145
- procedure ---- 145
- proposals, opening of ---- 146
- rentals ---- 146

LEVY OF ASSESSMENTS
- use of income from ---- 105

MEETINGS OF BOARD OF DIRECTORS ---- 72

MUTUAL WATER COMPANIES WITHIN DISTRICTS ---- 75, 79

NAME OF DISTRICT
- change if same as another district ---- 150

NEGLIGENCE
- act re liability for ---- 149

NOMINATING PETITIONS ---- 83

NOTICE OF ASSESSMENTS ---- 110

OFFICERS
- act re liability of ---- 149
- bonds of ---- 80
- compensation of ---- 124
- consolidation of offices ---- 85
- election of, at organization election ---- 70
- filling vacancies ---- 85
- insurance against liability ---- 133
- not to be interested in contracts ---- 125
- removal ---- 133
- violation of duty ---- 133

OFFICIAL BONDS
- liability on ---- 133

ORGANIZATION ---- 62
- after adverse report by State Engineer ---- 65
- board of directors, after biennial elections ---- 81
- election on ---- 69
- hearing on ---- 64
- order on ---- 70
- petition for ---- 63
- recording order ---- 71
- report of State Engineer ---- 63
- who may propose ---- 62, 63

OVERLAP OF DISTRICTS ---- 71

PAYMENT OF CLAIMS AGAINST ---- 122

PENALTIES ON DELINQUENT ASSESSMENTS ---- 113

PETITION TO ORGANIZE DISTRICT ---- 63

POWER LINES
- rights of way for ---- 205

POWERS OF DIRECTORS ---- 73

Page

- PRODUCTION OF MATERIALS
  - districts may engage in 191
- PROPERTY, TITLE TO 89
- PUBLICATION OF PETITIONS
  - for exclusion 135
  - for inclusion 139
  - for organization 63
- PURCHASE OF TAX LANDS 195
- PURCHASE OF WORKS 129
- RECALL OF OFFICERS 87
- REDEMPTION OF PROPERTY SOLD FOR DELINQUENT ASSESSMENTS
  - actions, limitations, instruments executed by collector 119
  - actions, limitations, instruments executed by district 117
  - general provisions 114
  - installment payments 192
  - partial redemption 116
- REDUCTION OF BONDED DEBT 145
- REFINANCING ACTS OF 1937
  - improvement districts 158
  - irrigation districts 45
- REGULATION OF SEEPAGE 75
- REGULATIONS
  - water 78
- SALE OF DISTRICT PROPERTY
  - delinquent property 111, 113
- SECRETARY
  - settlement with collector 120
- SHORTAGES
  - distribution of water during 130
- SINKING FUNDS FOR BONDS 106
- SPECIAL ACCOUNTS 77
- SPECIAL ASSESSMENT 125, 126
- STATE ENGINEER
  - access to district records, when 121
  - consolidation of districts, duties of 169
  - copy of organization petition to be filed with 64
  - dissolution, duties of 180
  - examinations and reports by 123
  - furnish information 68
  - investigations by 64, 121
  - report by, on consolidation 169
  - report by, on organization 64
  - reports to, by district 123
- STATE LANDS
  - inclusion in district 191
- STOCK OF PRIVATE CORPORATIONS, RIGHT TO OWN 73
- SUPERVISORS, COUNTY
  - conclusiveness of order 68
  - final order on organization 68
  - hearing on organization 64
  - make assessment, when 107
  - order on petition 68

Page

TAX COLLECTOR
- adjustments of, with secretary 120
- bond of 80
- deputies may be appointed 85
- election of 70, 79

TAX DEED
- evidence of what 118

TAX DEED LANDS
- exclusion of 134

TAX SALE
- misnomer not invalidate 120
- redemption after 114

TAXATION
- exemption from 138

TAXES
- assessment becomes a lien when 109
- assessment, book evidence of what 119
- assessment, delinquent when 110
- assessment, for interest and principal of bonds, rentals, etc. 105
- assessment, improper, may be refunded 110
- assessment, neglect to make 107
- assessment, of land omitted 108
- assessment, suit to collect 111
- assessment, unpaid tolls part of 109
- assessment, when due, notice of 110
- certificate of sale 113
- deed to land sold for delinquent 117
- delinquent list, contents of 112
- delinquent list, sale of lands under publication of 112
- delinquent list, publication of 111
- delinquent, not a bar to dissolution 117
- delinquent, sale of property for 113
- district attorney, duty of 108
- extension of time for levying 108
- levy and collection of 105
- misnomer not invalidate sale 120
- overlapping tax 118
- redemption of property sold 114
- secretary of board, duty of 107
- settlements between secretary and collector 120
- sinking fund 106
- time and place of sale 112
- tax deed, evidence of what 118

TENURE OF OFFICERS 71

TERM OF ELECTED OFFICERS 80

TITLE OF LANDS
- evidence of, by petitioner 62

TITLE TO DISTRICT PROPERTY 89

TOLLS
- for water 79, 123
- may be payable in advance 109
- unpaid, become part of assessment 109

TREASURER
- bond of 80
- deputies 85
- election of 70, 79

UNEXPENDED MONEYS, TRANSFER TO GENERAL FUND 131

UNITED STATES, AGREEMENTS WITH 74, 183

Page

USE OF WATER
- is a public use 78
- rules for 76

VACANCIES, IN OFFICES, HOW FILLED 84

VALIDATING ACTS
- citations of 148

VALIDITY OF BONDS
- action to determine 131, 132

VOTERS
- qualifications of 70

WARRANTS
- approval of payment plan 128
- draw interest if not paid 128
- for organization costs 126
- in general 126
- presentation for payment 128

WATER
- regulations for use of 78
- shortages distribution 130

WATER PROJECT AUTHORITY
- contracts with 190

WORKS
- assessment to complete 101

INDEX

COUNTY WATER DISTRICT ACT

Page

ADDITION TO DISTRICT
  portion of county or municipality 229

ALTERNATIVE MODE OF TAXATION
  assessment roll, prima facie evidence 242
  assessments; procedure 234
  assessor and collector, appointment, duties 234
  board of equalization; procedure 236
  certificate of sale 240
  delinquencies, extension of time 237
  directors as board of equalization 236
  district—rights after sale 242
  levy of tax 236
  notice of tax 238
  official maps 235
  option to employ alternative mode 234
  partial redemption 241
  penalties 238
  postponement of sale, penalties 239
  powers of assessor 237
  publication of delinquent list 239
  public lands—within district added 243
  record of sales 240
  redemption after sale 240
  refund of erroneous assessments 238
  sale, not invalid for misnomer 242
  segregation of assessments 237
  settlements by collector 243
  tax deed 242
  tax lien 237
  tax sale 240

ANNEXATION
  inclusion in Municipal Utility District 219

ASSESSMENTS
  levied on all property in district 225

AUDITOR
  appointed by board of directors 215

BOARD OF DIRECTORS
  duties of officers 220
  election of 209
  organization of 215
  powers of 220

BONDS
  exempt from taxation 223
  incurring debt 221
  refunding bonds 223
  two-thirds vote necessary 223
  validating acts, citations of 246
  value and use of 223

BOND ELECTION
  two-thirds vote necessary to carry 223

Page

CANVASS OF ELECTION RETURNS 221

CONSOLIDATION OF DISTRICTS
  board of directors, action by 245
  bonds, sale of 246
  districts may be consolidated 243
  election 244
  indebtedness 245
  informality not to invalidate 246
  name of district 245
  offices 245
  petition 244
  powers of district 245
  rights of creditors 246
  State Engineer, investigation by 244
  State Engineer, recommendation and report by 244
  State Engineer, unfavorable report by 245

CONSTRUCTION OF WORKS
  power to construct 224

DEFICIT
  tax levy to pay 225

DIRECTORS (*See* BOARD OF DIRECTORS)

DISTRICT
  powers of 216

ELECTIONS
  bonded indebtedness, notice, canvass of returns 221
  general laws to govern 214
  not to be invalidated by informalities 216
  of directors 209
  of officers, nomination 210

EXCLUSION OF TERRITORY 232

EXPENSES
  operating, rate for water fixed to pay same 224

GENERAL LAWS TO GOVERN ELECTIONS 214

GENERAL MANAGER, SECRETARY, AUDITOR, APPOINTED BY BOARD 215

GENERAL PROVISIONS
  adding to district, portions of county or municipality 229
  addition of land in adjoining county 230
  conditions on additions to district 231
  exclusion of territory 232
  initiation of ordinances 228
  other acts not repealed, definitions, proceedings validated 231
  referendum 229
  short title of act 243

IMPROVEMENT ACT OF 1911
  authority of board to order work 227

INFORMALITY NOT TO INVALIDATE ELECTIONS 216

LEVY AND COLLECTION OF TAXES
  all property assessed 225
  lien on all property 225
  lien enforced as for state and county 225
  special assessments 226

MOSQUITO ABATEMENT 219

MUNICIPAL UTILITY DISTRICTS
  annexations or inclusions in 219

Page

OFFICERS
- election by divisions 210
- nomination and election of directors 210
- subject to recall 215

OPERATING EXPENSES
- water rates and taxes for 224

ORDINANCES
- by board of directors 215
- initiation of 228

ORGANIZATION
- board of directors 215
- of district 206
- petition and election 207
- who may organize 206

OTHER ACTS NOT REPEALED 231

PETITION AND ELECTION FOR ORGANIZATION 207

POWERS
- exercised by board of directors 220
- of district 216
- of officers, and duties 216
- of mosquito abatement district 219
- to construct works 224

PUBLICATION OF ELECTION NOTICE, CANVASS OF RETURNS 221

RATES FOR WATER
- fixed by board of directors 224
- to pay operating expenses 224

RECALL OF OFFICERS 215

REFERENDUM 229

REGISTRAR OF VOTERS
- duties to be performed by 232

SECRETARY
- appointment of 215

STATE ENGINEER
- investigation and report by 244

TAX DELINQUENCY
- procedure as for state and county 225

TAX LEVY TO PAY DEFICIT 225

TAXES (*See* LEVY AND COLLECTION OF and ALTERNATIVE MODE OF, this INDEX)

TERRITORY
- inclusion of 229
- exclusion of 232

VALIDATING ACTS
- citations 246

VOTERS
- qualified under general election laws of state 209

WATER RATES AND TAXES
- levy and collection of taxes 225
- petition for special rate of assessment 226
- tax levy to pay deficit 225
- water rate to pay operating expenses 224
- water rates fixed by board 224

INDEX

CALIFORNIA WATER DISTRICT ACT

ASSESSMENTS
- action on validity 259
- annual estimate 257
- appeals from 259
- assessment book 257
- certificate of sale, deed 260
- county assessment roll may be used 272
- delinquent notice, publication 260
- for redemption of bonds 259
- hearings on 258
- lien of 259
- rates and charges 258
- redemptions 260
- sale for delinquency 260

BOARD OF DIRECTORS
- meetings and records 255
- organization of 255
- powers and duties of 256

BONDS
- actions on validity 264
- assessments for redemption 259
- destruction of unused 265
- District Securities Commission Act applies 265
- election on 262
- form and terms 263
- fund 266
- issue of additional 264
- limit of authority to issue 249
- redemption of 266
- sale of 265

BOUNDARIES
- change of 272, 276
- fixing of 250

BY-LAWS 254

CONSTITUTIONALITY CLAUSE 272

COUNTY ASSESSMENT ROLL, ADOPTED WHEN 272

DISSOLUTION OF DISTRICT 271

DISTRICT SECURITIES COMMISSION
- approval of bonds 249

DIVISION OF COUNTY, EFFECT ON DISTRICT 270

ELECTIONS
- canvass of returns 252
- conduct of 267
- contest of 267
- officers of 267
- on organization 250, 252
- proxies 267

EMINENT DOMAIN 270

EXCLUSION OF LAND
- bondholders' consent 274
- bonded indebtedness not released 275
- hearing on petition 273
- organization not impaired by 275
- petition for 273
- proofs in support of 274

EXCLUSION OF LAND—Continued Page
- publication of notice 273
- reestablishment of divisions after 275
- signing of petition by legal representative 275

FEES
- none for official services by county officials 270

FUNDS 266

INCLUSION OF LAND
- boundaries changed by 276
- conditions required by board 277
- determination 278
- election on 279
- filing of order 280
- hearing on petition 277
- lands subject to inclusion 276
- minutes admissible as evidence 280
- order of board after election 280
- protests 279
- publication of petition 277
- reestablishment of divisions 280
- signing of petition by legal representative 280

LEGAL REPRESENTATIVE
- may act when 268, 275, 280

LIMITATIONS OF ACTION
- actions on bond validity 264
- assessment 259

MISDEMEANORS
- officers 270
- violation of rules 270

OFFICERS OF DISTRICT 254
- no interest in contracts 270
- term of officers 253, 254

ORDER BY SUPERVISORS
- filing of 253

ORGANIZATION
- determination of legality 253
- lands, evidence of title to 249, 254
- petition for 249

OWNERSHIP OF LAND
- evidence of 249, 254

PETITION FOR ORGANIZATION
- contents of 249
- publication of 250

PLAN OF IRRIGATION WORKS 262

REPEALS
- none by act 272

RIGHTS OF WAY 269

SALE
- for delinquent assessments 260

SALE OF WATER 272

STATE LANDS
- rights of way over 269

TAX (*See* also ASSESSMENTS, this INDEX)
- for preliminary expenses 252

VALIDATING ACTS
- citations of 280

VOTERS 267

WARRANTS 266

WATER, USE OF
- declared public use 269
- rules for distribution 270
- sale of 272

PUBLICATIONS

DIVISION OF WATER RESOURCES

PUBLICATIONS OF THE

DIVISION OF WATER RESOURCES

DEPARTMENT OF PUBLIC WORKS

STATE OF CALIFORNIA

When the Department of Public Works was created in July, 1921, the State Water Commission was succeeded by the Division of Water Rights, and the Department of Engineering was succeeded by the Division of Engineering and Irrigation in all duties except those pertaining to State Architect. Both the Division of Water Rights and the Division of Engineering and Irrigation functioned until August, 1929, when they were consolidated to form the Division of Water Resources.

STATE WATER COMMISSION

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*Bulletin No. 2—Kings River Investigation, Water Master's Report, 1918-1923.
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*Bulletin No. 4—Preliminary Report on Conservation and Control of Flood Waters in Coachella Valley, California, 1917.
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*Bulletin No. 1—California Irrigation District Laws, 1921 (now obsolete).
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Bulletin No. 3—Water Resources of Tulare County and Their Utilization, 1922.
Bulletin No. 4—Water Resources of California, 1923.
Bulletin No. 5—Flow in California Streams, 1923.
Bulletin No. 6—Irrigation Requirements of California Lands, 1923.
*Bulletin No. 7—California Irrigation District Laws, 1923 (now obsolete).
*Bulletin No. 8—Cost of Water to Irrigators in California, 1925.
Bulletin No. 9—Supplemental Report on Water Resources of California, 1925.
*Bulletin No. 10—California Irrigation District Laws, 1925 (now obsolete).
Bulletin No. 11—Ground Water Resources of Southern San Joaquin Valley, 1927.
Bulletin No. 12—Summary Report on the Water Resources of California and a Coordinated Plan for Their Development, 1927.
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Bulletin No. 14—The Control of Floods by Reservoirs, 1928.
*Bulletin No. 18—California Irrigation District Laws, 1927, Revision.
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Bulletin No. 20—Kennett Reservoir Development, an Analysis of Methods and Extent of Financing by Electric Power Revenue, 1929.
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Bulletin No. 28—Economic Aspects of a Salt Water Barrier Below Confluence of Sacramento and San Joaquin Rivers, 1931.
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Bulletin No. 32—South Coastal Basin, a Cooperative Symposium, 1930.
Bulletin No. 33—Rainfall Penetration and Consumptive Use of Water in Santa Ana River Valley and Coastal Plain, 1930.
Bulletin No. 34—Permissible Annual Charges for Irrigation Water in Upper San Joaquin Valley, 1930.
Bulletin No. 35—Permissible Economic Rate of Irrigation Development in California, 1930.
Bulletin No. 36—Cost of Irrigation Water in California, 1930.
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